

**Incidence and Implications of Sexual Harassment and Sexual Violence in
K–12 Schools**

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INCIDENCE AND IMPLICATIONS OF SEXUAL HARASSMENT AND SEXUAL VIOLENCE IN K–12 SCHOOLS

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SEXUAL HARASSMENT IN K–12 SCHOOLS

Introduction and Context

The educational establishment paid little attention to the subject of sexual harassment in K–12 schools until it was propelled into the national consciousness and discourse in February 1992. A 9–0 landmark decision in the United States Supreme Court in the *Franklin v. Gwinnett County (GA) Public Schools* (1992) case focused attention on the problem of sexual harassment in K–12 and included a stern warning about liability to the educational community.

Prior to the 1992 Supreme Court decision, sexual harassment in K–12 schools had not been widely acknowledged. Some State-level bureaucracies and individuals were paying attention to the problem, however. These pioneering efforts include the curriculum materials developed and surveys administered by the Massachusetts Department of Education (1979, 1982, 1983, and 1986) and the Programs in Equal Educational Opportunity at the University of Michigan (one of the federally funded Desegregation Assistance Centers funded by Title IV). In addition, training efforts were established through the former Title IV/sex-equity offices of departments of education in several States, including California, Florida, Hawaii, Maryland, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Pennsylvania, South Dakota, Washington State, and Wisconsin. There were also a few academic and popular articles published on the subject (Bogart & Stein, 1987; Stein, 1991; Strauss, 1988). Though the larger educational community sometimes anecdotally acknowledged it, the problem of sexual harassment was usually treated like a secret that just happened to occur in public.

The school reform movement ignored both the issue of gender and the

phenomenon of sexual harassment. In the landmark 1992 study, written by the Wellesley College Center for Research on Women, “How Schools Shortchange Girls” (American Association of University Women [AAUW], 1992) and released two weeks prior to the *Franklin* decision, discussion of gender was missing from the 35 school reform reports that the Wellesley researchers reviewed. Only four of the commissions that issued reports about the condition of America’s schools included gender or sex discrimination issues (the rubric under which sexual harassment is legally located) in their analyses. Girls’ problems were reduced to pregnancy at an early age and dropping out of school. The Wellesley report concluded that “the concentration on these (two) issues to the exclusion of others leads to strategies directed toward individual rather than systemic change and programs focused on girls’ personal decisions rather than policy initiatives to improve the educational system” (AAUW, 1992, p. 6).

However, since 1992 and the Supreme Court’s decision, there has been no shortage of attention to the problem of sexual harassment in K–12 schools, whether one reviews the popular (print and electronic) press or the academic, educational, legal, or feminist journals. Sexual harassment in K–12 schools is clearly a subject that resonates with the public and the educational community alike.

Definition of Sexual Harassment

Sexual harassment in schools is unwanted and unwelcome behavior of a sexual nature that interferes with the right to receive an equal educational opportunity. It is a form of sex discrimination that is prohibited by Title IX, a Federal law establishing civil rights in education that addresses issues of sex discrimination and, by judicial precedent, sexual harassment. Sexually harassing behaviors that can interfere with one’s educational

opportunity range from words (written and spoken) and gestures to physical contact. Some of the behaviors may also be criminal acts (assault and rape, attempted or completed) and child sexual abuse.

Both the Federal courts and the Office for Civil Rights (OCR) of the United States Department of Education (ED) recognize two forms of unlawful sexual harassment in education. The first form is quid pro quo harassment as defined by the guidance in the “Federal Register,” issued on March 13, 1997, by the OCR (ED, 1997). Quid pro quo harassment occurs when a school employee explicitly or implicitly conditions a student’s participation in an education program or activity or bases an educational decision on the student’s submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid pro quo harassment is equally unlawful whether the student resists and suffers the threatened harm or submits and thus avoids the threatened harm (ED, 1997).

The second recognized form of sexual harassment in schools is hostile-environment harassment. Hostile-environment harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by an employee, another student, or a third party. This form of harassment requires that the harassing behavior be sufficiently severe, persistent, or pervasive so as to limit a student’s ability to participate in or benefit from an educational program or activity, or to create a hostile or abusive educational environment (ED, 1997). Typically, in school settings and particularly between students, allegations of hostile-environment harassment are more commonplace than allegations of quid pro quo harassment.

According to the OCR guidance:

A school will be liable under Title IX if its students sexually harass other students if (1) a hostile environment exists in the school's programs or activities; (2) the school knows or should have known of the harassment; and (3) the school fails to take immediate and appropriate corrective action[.]...A school's failure to respond to the existence of a hostile environment within its own programs or activities permits an atmosphere of sexual discrimination to permeate the educational program and results in discrimination prohibited by Title IX[.]...Title IX does not make a school responsible for the actions of harassing students, but rather for its own discrimination in failing to remedy it once the school has notice (ED, 1997).

Incidence of Sexual Harassment in Schools

Since 1993, there have been several surveys on sexual harassment in schools, including three nationally representative surveys, six State-specific surveys, several surveys of single schools, and a few promising doctoral dissertations. Results from surveys of sexual harassment in schools illustrate the nature of sexual harassment in schools and demonstrate that it is a widespread phenomenon. Each survey is summarized here with its findings and limitations indicated. Overall weaknesses of all the surveys include no information on gay, lesbian, or bisexual students; no socioeconomic status data; no information on students in elementary grades, though some of the respondents to the "Seventeen" magazine study were as young as 9 years old; and, with one exception (Russo pilot study), no information on disabled students.

National surveys

"Seventeen" magazine survey (1993)

In September 1992, thousands of preteen and teenage girls responded to 11 multiple-choice questions and 2 open-ended questions in a survey published in an article on sexual harassment in "Seventeen" magazine (LeBlanc, 1992). Many of the responses arrived on lined notebook paper or perfumed stationery with messages such as "Open,"

“Urgent,” and “Please Read” handwritten on the envelopes (Stein, 1992a, 1995). At the time, “Seventeen” was the most widely read magazine for teenage girls in the country, with 1.9 million subscribers and a “pass along” circulation of 8 to 10 million girls (“Study calls schools lax on sexual harassment,” 1993).

The survey instrument was written by the Wellesley College Center for Research on Women and cosponsored by the National Organization for Women Legal Defense and Education Fund. A total of 4,300 self-selected respondents submitted completed surveys by the deadline of September 30, 1992. From these surveys 2,002 were selected at random and analyzed (Stein, Marshall, & Tropp, 1993). The selected respondents were all girls age 9 to 19; no boys responded to the survey, which comported with the readership data of the magazine.

The most common forms of sexual harassment reported by the girls were receiving sexual comments, gestures, or looks (89 percent); and being touched, pinched, or grabbed (83 percent). Many of the girls reported that they experienced sexual harassment regularly; 39 percent reported being harassed daily during the last year. Most of the reported harassment occurred in public; other people were present during two-thirds of the incidents of sexual harassment in the “Seventeen” study.

Reported reactions to the sexual harassment were mixed but were rarely passive. Almost two-thirds of the girls reportedly told their harassers to stop; more than one-third resisted with physical force; others told their friends, parents, or teachers. Among the incidents of harassment that were witnessed by others, 94 percent occurred in a classroom, 76 percent occurred in a school hallway, and 69 percent occurred in a school parking lot or playing field. (Percentages do not sum to 100 percent because many respondents cited

multiple locations.)

Many of the respondents wrote elaborate and detailed answers in response to the two open-ended questions on the survey: “What do you think schools should do to prevent sexual harassment?” and “If you've been sexually harassed at school, how did it make you feel?” The responses revealed the persistence and pervasiveness of sexual harassment in schools. Several themes emerged from these open-ended testimonials. The first such theme was the public nature of the incidents of sexual harassment described, in many of which there were bystanders to the events, some of whom were adult employees of the school. The second theme was that the targets were not passive in the face of this harassment, thereby helping to belie the popular notion that girls are passive victims or that they enjoy the attention. The third theme was that when the girls told school officials about the sexual harassment incidents, their stories were often dismissed or trivialized.

The excerpts reprinted here are among the eloquent statements that pointed to these themes.

Theme 1: The public nature of sexual harassment

Of the times I was sexually harassed at school, one of them made me feel really bad. I was in class and the teacher was looking right at me when this guy grabbed my butt. The teacher saw it happen. I slapped the guy and told him not to do that. My teacher didn't say anything and looked away and went on with the lesson like nothing out of the ordinary had happened. It really confused me because I knew guys weren't supposed to do that, but the teacher didn't do anything. I felt like the teacher (who was a man) betrayed me and thought I was making a big deal out of nothing. But most of all, I felt really bad about myself because it made me feel slutty and cheap. It made me feel mad too because we shouldn't have to put up with that stuff, but no one will do anything to stop it....

14-year-old white girl¹ from a large city in Washington State

Being harassed myself—I did not realize it at the time. I knew it was wrong

and I know I felt horrible. Me? I would be trapped under tables and bothered by at least 4 guys. They thought it was all fun and games. It wasn't. These guys would grab my breasts and touch my butt. It always happened in Industrial Arts.

15-year-old Mexican/American Indian from California

One time we were in the computer lab, and this one particular guy came up behind me with one of his friends and 'pretended' to have anal sex with me. The teacher was maybe ten yards away handing out discs to the students while this was going on.

12-year-old white from Alaska

I've been harassed in FRONT of teachers and hall monitors, maybe even a janitor or two, and certainly other students, NONE OF WHOM took any action. They probably dismissed it as flirting, or maybe they were just ignorant or didn't care.

14-year-old white from New York

Theme 2: Girls are not passive in the face of the sexual harassment

In my case there were 2 or 3 boys touching me, and trust me they were big boys. And I'd tell them to stop but they wouldn't! This went on for about 6 months until finally I was in one of my classes in the back of the room minding my own business when all of them came back and backed me into a corner and started touching me all over. So I went running out of the room and the teacher yelled at me and I had to stay in my seat for the rest of class.

12-year-old Mexican-American from Saginaw, Michigan

My harassment came from one boy every day. Constantly. He was really into smacking my bottom, among other things and always asking me to go to bed with him. There were tons of other guys, too. My freshman year was the worst and my sophomore year wasn't much better—there were two guys that were always bothering me the most at different times. I didn't want to go to school and I held resentment towards those who did that to me. I always told them to stop and even sometimes hit them. It seemed to turn them on more.

14-year-old African American from Illinois.

I had four boys sexually harassing me.... I felt like they thought I was a slut. I even thought the whole bus thought I was a slut, because they would give me dirty looks and call me a slut. I hated it! I told the harassers to stop, but they wouldn't. So, I wrote them a note saying it was sexual harassment, and if they didn't stop I would report them. They started saying "it isn't sexual harassment, we didn't lay a hand on you."

14-year-old white from Massachusetts

The guys would want you to let them touch you all over. But I was one of the girls that would not do that. Then one day they thought they would do it anyway. So I defended myself like you should. I kind of hurt him. The teacher caught me hitting him. And I got in trouble for hitting him. The teacher took him out of the room for his story and he lied and said he did nothing. My teacher wouldn't believe my story. I was the one getting in trouble. The school and the principal wouldn't listen to me.

13-year-old Mexican girl from Wichita, Kansas

Theme 3: Girls tell school officials about the incidents of sexual harassment

It was like fighting an invisible, invincible enemy alone. I didn't have a clue as to what to do to stop it, so I experimented [with] different approaches. Ignoring it only made it worse. It made it easier for them to do it, so they did it more. Laughing at the perpetrators during the assaults didn't dent the problem at all, and soon my friends became tired of doing this. They thought it was a game. Finally I wrote them threatening letters. This got me in trouble, but perhaps it did work. I told the school administrators what had been happening to me. They didn't seem to think it [was] a big deal, but they did talk to the three biggest perpetrators. The boys ignored the administrators and it continued. And they were even worse.

14- to 15-year-old white girl from Massachusetts

Finally, I decided to tell the counselor and Dean of students. I regret it to this day because they made me feel as if I were lying and I felt more interrogated than listened to. I felt really alone and stupid.

16-year-old white girl from a city in North Dakota

Finally, I got the courage to do something about it. I told my principal what was happening. He was very skeptical about the whole thing, and he didn't do much about it. I wish I knew I was being harassed and had done something more about it...but I still felt like it was my fault and I still do a little bit.

14-year-old white girl from a small town in Pennsylvania

This study has many limitations. It did not use a probability sampling design; respondents were limited to motivated readers of the magazine. The ethnic breakdown corresponded only to the ethnic and racial breakdown of the magazine's readership and

was not representative of the nation or of those who experience sexual harassment. And, the respondents were entirely female. These findings cannot be generalized beyond the sample surveyed.

“Hostile Hallways” (1993)

“Hostile Hallways,” released in June 1993, was conducted by Louis Harris and Associates, Inc., in partnership with Scholastic, Inc., with funding from AAUW. The national probability sample of schools and students is based on a highly stratified two-stage sampling design. The findings are generalizable to all public school students in the 8th through 11th grade at the 95 percent confidence level, with a margin of error of $\pm .04$ (AAUW, 1993, p. 5). This rigorous survey firmly established that there was a universal culture of sexual harassment with no significant racial differences flourishing in America’s secondary schools.

“Hostile Hallways” randomly sampled 1,632 boys and girls (828 boys and 779 girls) in grades 8–11 in 79 public schools; classes and grades were also randomly selected within the schools. A random sample of schools was selected from the database of public schools at the National Center for Education Statistics with a proportionally drawn sample by grade and regional location. African-American and Hispanic students were oversampled. The sample was 15 percent African American, including 120 African-American females and 138 African-American males, and 9 percent Hispanic, including 70 Hispanic females and 78 Hispanic males.

The survey instrument consisted of 40 questions and addressed the following aspects of sexual harassment:

- frequency of victimization and perpetration

- type (physical or nonphysical)
- grade level at first experience
- frequency of adult-to-student and peer-to-peer harassment
- location
- impact on students' education (such as cutting classes or school absence, not wanting to talk as much in class, finding it hard to pay attention or study, and thinking about changing schools)
- impact on students' emotional state (such as feeling embarrassed, self-conscious, afraid, confused, or more or less popular)
- impact on students' behavior (such as avoiding the harasser, staying away from particular places in school, changing seats, and changing friends, or route).

Table 1 shows the percentages of boys and girls who are subjected to different types of sexual harassment.

Table 1: Types of Sexual Harassment Experienced in School in Grades 8–11*

	Boys	Girls
Sexual comments, jokes, gestures, or looks	56 %	76 %
Touched, grabbed, or pinched in a sexual way	42 %	65 %
Intentionally brushed up against in a sexual way	36 %	57 %
Flashed or mooned	41 %	49 %
Had sexual rumors spread about them	34 %	42 %
Had clothing pulled at in a sexual manner	28 %	38 %
Shown, given, or left sexual pictures, photographs, illustrations, messages, or notes	34 %	31 %
Had their way blocked in a sexual way	17 %	38 %
Had sexual messages or graffiti written about them on bathroom walls, in locker rooms, etc.	18%	20%
Forced to kiss someone	14%	23%
Called gay or lesbian	23%	10%
Had clothing pulled off or down	17%	16%
Forced to do something sexual other than kissing	9%	13%
Spied on while dressing or showering	8%	7%

*Based on the 81% of students who reported some experience of sexual harassment in school
Source: AAUW, 1993, p. 9.

Respondents to the “Hostile Hallways” survey revealed a portrait of sexual harassment similar to that found by the “Seventeen” survey—one that included public incidents occurring throughout the school. Of the 81 percent of the students who reported experiencing sexual harassment in school

- 66 percent said they had been harassed at least once in the hall
- 55 percent reported the classroom as the site of the their harassment
- 43 percent had been harassed outside of school, on school grounds (other than the parking lot)
- 39 percent reported harassment in the gymnasium, playing field, or pool area
- 34 percent cited harassment in the cafeteria
- 23 percent had been harassed in the school parking lot.

Although locker rooms and restrooms are presumably gender-segregated sites, they were reported as sites of sexual harassment by 19 percent and 10 percent, respectively, of students reporting any sexual harassment. Overall, 83 percent of the girls and 60 percent of the boys reported experiencing unwanted sexual attention in school.

One notable limitation of this study is that it asked students to recall all of their sexual harassment experiences during their entire school history and then to focus on the most severe event. The focus on the worst incident could have distorted the nature and severity of the harassment most commonly experienced. Moreover, the definition provided to the students taking the survey asked them to consider “unwanted and unwelcomed sexual behavior which interferes with your life.” Critics say this definition is too broad.

The phrase “with your life” leads students to reflect on behaviors other than those confined to school.

Four important findings emerged from the “Seventeen” survey and the AAUW/Harris poll. First, sexual harassment is pervasive in secondary schools. In the AAUW/Harris poll, 83 percent of the girls and 60 percent of the boys had experienced sexual harassment; and 89 percent of the girls in the “Seventeen” survey reported harassment. Second, students consider sexual harassment to be a serious problem, with 75 percent of respondents from the AAUW/Harris poll and 70 percent of respondents to the “Seventeen” survey indicating that it is serious. Third, the behavior occurs in public places; two-thirds of the incidents reported in both studies occurred in public. Fourth, students have difficulty getting help, even though a majority of respondents in both surveys reported trying to talk to someone about the harassing behavior.

According to the analysis of the AAUW/Harris poll by Lee and colleagues (1996), the frequency of harassment depends on gender and not on race, ethnicity, or class. Other statistically significant factors that contributed to the likelihood of being harassed included having friends who are harassed, having engaged in harassment, and perceiving harassment at one’s school (Lee, Croninger, Linn, & Chen, 1996).

Moreover, the severity of harassment is related to gender, race, grade level, whether an adult was the reported harasser, and whether school officials tolerated harassment (Lee et al., 1996). Girls are harassed more severely than boys; Blacks are harassed more severely than other racial groups; and students in higher grades are harassed more severely than those in lower grades (Lee et al., 1996). On average, students who were harassed by adults were harassed more severely than were students harassed by

peers. Gender again played a major role.

While harassment by a principal or fellow student did not vary by gender, female students were significantly more likely than their male counterparts to report harassment by a teacher (20% v. 8%) or by a staff member (48% v. 37%). (Lee et al., 1996, pp. 400–401)

More than half (53 percent) of the students reported both harassing and being harassed by their peers. Two-thirds (66 percent) of all boys and more than half (52 percent) of all girls admitted that they had sexually harassed someone in a school setting. The survey listed several options as reasons for the harassment, to which students responded as indicated:

- “It’s just part of school life” (37 percent of perpetrators; gender breakdown was 41 percent boys and 31 percent girls).
- “I thought the person liked it” (25 percent of all perpetrators; 27 percent of boys and 23 percent of girls).
- “I wanted a date with the person” (22 percent of all perpetrators; 24 percent of boys, 20 percent of girls).
- “My friends encouraged me/pushed me into doing it” (19 percent of all perpetrators with no gender gap).
- “I wanted something from that person” (18 percent of all perpetrators; gender breakdown of 20 percent boys, 16 percent girls).
- “I wanted that person to think I had some sort of power over them” (6 percent of the perpetrators, gender breakdown of 6 percent of boys and 7 percent of girls) (Lee, et al., 1996).

Unfortunately, the survey provided no options that would shed light on whether the sexual

harassment was in self-defense, thereby leaving open the question about retaliation or harassing back as a response to the initial harassment or violence. Another study is needed to figure out which or who came first.

Only 15 percent of the girls and 31 percent of the boys in the AAUW/Harris sample reported their lives were untouched by sexual harassment (never been harassed and never harassed others); 31 percent of girls and 7 percent of boys indicated that they had been harassed but never had harassed others; and 1.4 percent of girls and 9.3 percent of boys said they had never been harassed though they had harassed others (Lee, et al., 1996).

“USA Weekend” magazine survey (1996)

A survey of 222,653 students (44 percent male and 56 percent female), released by “USA Weekend” magazine on September 8, 1996, again found that sexual harassment is a common experience among students (Pera, 1996). This survey of a large, self-selected sample reflected only the opinions of those students in grades 6 through 12 who chose to respond. The survey was published in 465 newspapers across the country during the last two weekends of March 1996. Most of the students who responded completed the survey that appeared in the newspapers; a substantial minority were required by their teachers to fill out the survey.²

Among the girls, 81 percent indicated that they had experienced some form of sexual harassment at school. Among the boys, 76 percent reported some sort of experience of sexual harassment at school.

State-specific surveys

Several States have conducted surveys on sexual harassment in schools using

various methodologies. Some of these surveys have been published, while others are less widely known. Nonetheless, they are included in this review because they indicate that the problem of sexual harassment is recognized as one worthy of study by researchers, school officials, and presumably the parents who gave permission for their children to participate in the study.

Massachusetts (1981, 1982)

One of the earliest surveys on the issue of sexual harassment in K–12 schools was conducted during the 1980–81 school year by the Massachusetts Department of Education (Stein, 1981, 1982). Of the 49 boys and girls who filled out surveys, 38 reported incidents of sexual harassment. Of these 38 incidents, 16 were peer-to-peer harassment, all but one of which was directed at a girl by a boy or group of boys. The remaining 22 incidents were episodes in which adults in the school community reportedly harassed students.

The second component of the Massachusetts Department of Education's investigation into sexual harassment consisted of interviews with young women who had entered shops and courses in vocational schools that had been considered nontraditional for their sex. Of the 22 such women interviewed, 19 had experienced at least one incident of sexual harassment.

The chief limitation of the Massachusetts study is its reliance on a rather small convenience sample. It is, nonetheless, recognized as groundbreaking in light of its historical period and context. At the time of the study, there were no sexual harassment lawsuits in the K–12 arena. There was only one legal precedent in higher education—the case against Yale University in which it was ruled that sexual harassment was a form of sex discrimination, *Alexander v. Yale University* (1977, 1980).

Connecticut (1995)

During the 1993–94 school year, Connecticut conducted the most scientifically rigorous of the State surveys and in January 1995 released the results. A report, “In Our Own Backyard: Sexual Harassment in Connecticut's Public High Schools,” was generated from the survey of 547 public high school students in grades 10–12 (Permanent Commission on the Status of Women, 1995). The representative sample of students from seven school districts selected by the Connecticut Department of Education included 308 females, 235 males, and 4 students who did not indicate their gender. Participating school districts were judged to be representative of the socioeconomic status and age of students throughout the State. The sample was 78 percent Caucasian, 8 percent African American, 6 percent Latino, 4 percent Asian, and 4 percent other or unidentified. No age range was provided in the report.

When answering the survey questions, students were asked to pick the most upsetting episode of sexual harassment they had experienced since starting high school. Seventy-eight percent of students reported experiencing at least one incident of sexual harassment since starting high school, including 92 percent of the females and 57 percent of the males (Carlson, 1995; Potopowitz, 1995). In 57 percent of the incidents, the perpetrator was a single person, though 24 percent of the students indicated that a group caused the most upsetting behavior. Interestingly, the perpetrator was identified as a friend (33 percent) or acquaintance (35 percent), rather than a stranger (9 percent). A small number (3.5 percent) of the most upsetting behaviors were perpetrated by school personnel.

The survey consisted of 30 questions and addressed the following aspects of sexual harassment:

- type (physical or nonphysical)
- frequency of adult-to-student and student-to-student harassment
- relationship with harasser (friend, stranger, boyfriend/girlfriend, teacher, coach)
- location
- impact on students' education (cutting classes or school absence), emotional state, and behavior (avoiding the harasser)
- report of the harassment.

The most notable strength of this study is that it is based on a representative sample of the Connecticut student population, so the results can be generalized to the entire State. Study limitations include asking students to focus on the most upsetting episodes of harassment that occurred since starting high school.

Iowa (1994)

The 1994 Iowa survey had a sample of 503 students (253 females, 250 males) and found that 83 percent of the female students and 62 percent of the male students reported at least one “exposure” to sexually harassing situations (“exposure” was defined as an experience with sexual harassment). Out of 400 high schools in Iowa, 83 principals agreed to participate in the study (a 21-percent response rate). Surveys were administered in physical education classes, in addition to telephone interviews with students at their homes.

The authors' use of the awkward concept of “exposure” to sexual harassment rather than the simpler, cleaner notion of “experience” makes comparing the findings of

this study to others difficult. Use of this term could have added some confusion for the persons taking the survey and thus decreases comparability with other surveys. Moreover, the authors decided to avoid using the expression “sexual harassment” in the survey and during the interview phase of this study because they found that the term was responsible for “triggering emotional responses” (Boddy & Selzer, 1994).

North Dakota (1997)

North Dakota administered a version of the AAUW/Harris poll instrument in eight randomly selected high schools across the State, selected by size. A total of 87 males and 89 females in the 12th grade were surveyed in social studies classes. Stratton and Backes (1997) found that the male students in the North Dakota sample were more likely than males in the nationally representative AAUW/Harris poll to report experiencing sexual harassment. In the North Dakota sample 83 percent of the boys reported experiencing sexual harassment, whereas in the AAUW/Harris poll 60 percent of the boys had experienced sexual harassment. For girls, 93 percent in the North Dakota study reported that they had experienced sexual harassment, compared to 83 percent of the girls in the AAUW/Harris poll. The researchers also found that the most frequent types of sexual harassment reported were sexual comments, jokes, gestures, or looks, a finding consistent with results from other surveys. The most frequent type of harassment was student-to-student, but eight females (9.8 percent) reported being harassed by a teacher and two females (2.4 percent) by a coach, while five boys (6.9 percent) reported being harassed by a coach and two (2.8 percent) by a teacher. These percentages are considerably lower than the AAUW/Harris study.

Another interesting finding, similar to the AAUW/Harris study, concerned the

onset of the first experience of sexual harassment. Females most frequently cited seventh grade (13.3 percent) as the grade they were in when they first experienced sexual harassment. However, 40 percent of the females reported that they could not remember when they first experienced sexual harassment.

Limitations of this study include that it sampled only students in the 12th grade. Comparisons with the AAUW/Harris study should not be made despite the authors' best intentions to replicate that study. Differences in prevalence could be due to age of the respondents.

New Jersey (1996)

In October 1993, a group of undergraduate women's studies students in a research methods class at Rutgers University undertook a study of sexual harassment in New Jersey schools. They surveyed 696 students (365 girls and 331 boys) from nine schools by distributing a survey in required health/family classes (Trigg & Wittenstrom, 1996). The convenience sample overrepresented racial minorities as well as middle and upper class students (Trigg & Wittenstrom, 1996). The breakdown of students by grade was 8 percent 8th graders, 29 percent 9th graders, 22 percent 10th graders, 38 percent 11th graders, and 2 percent 12th graders.

The results were similar to those of the nationally representative AAUW/Harris poll (1993): 97 percent of the girls and 70 percent of the boys surveyed in New Jersey had personally experienced sexual harassment. Most of the incidents reportedly occurred in public places. Unlike with the other surveys, however, gender differences emerged from this study.

For example: 52% of the girls but only 19% of the boys were very or

somewhat upset by a harassing incident; 44% of the girls surveyed worry about being sexually harassed at school, compared to 11% of the boys; and one out of three girls—but only one out of ten boys—harassed in school reported lower self-confidence as a result. (Trigg & Wittenstrom, 1996, p. 58)

The authors wrote, “Of the 24 categories measured by this survey, girls felt the negative impact more than boys did in 22 categories” (Trigg & Wittenstrom, 1996).

Additional findings about the effects of sexual harassment on boys also emerged from this study. The authors wrote:

Boys were most disturbed by behaviors that threatened their masculinity, such as being called homosexual or being sexually harassed by other boys. (Trigg & Wittenstrom, 1996, p. 59)

The only harassing behavior that boys experienced at a higher rate than girls was being called gay. Boys were also twice as likely to be harassed by members of their own sex (31 percent) than girls were by other girls (16 percent).

Limitations of the study include an overrepresentation of racial diversity and middle class and upper-middle class areas of the State.

Texas (1997)

In October 1997, the Texas Civil Rights Project released its study of peer-to-peer sexual harassment in schools (Texas Civil Rights Project, 1997). The study was based on data from 1,860 students in grades 7–12 who were participating in workshops on sexual harassment. The sample included 784 males, 886 females, and 190 others who did not specify their sex. Students did not self-select for the training; they were assigned because participation was required. In some schools, permission slips were required from parents.

Notwithstanding the limitations posed by the use of a convenience sample, the

results mirrored some of the findings from the AAUW/Harris poll (1993) and the “Seventeen” magazine study (Stein et al., 1993; “Sexual harassment is rampant,” 1997). The Texas study found that 64 percent of the female students had experienced sexual gestures, looks, comments, or jokes. More than half (52 percent) of the female students reported having been pressured into doing something sexual against their will, and 25 percent of all the students surveyed had experienced unwanted physical invasions such as touching, pinching, and grabbing (Texas Civil Rights Project, 1997).

Limitations of this study are many: surveys were distributed after workshops devoted to the subject of sexual harassment, thus potentially providing a bias in the sampling and responses. Lawyers with little research experience wrote the report on the study, making access to the information awkward and difficult to obtain, among other problems. For example, the report did not provide a breakdown of the sample by the sex or grade of the survey respondents.

Other school-based studies

Fineran and Bennett (1995)

Begun as a doctoral dissertation project, this study surveyed 342 students (130 males and 222 females). They were 73 freshmen, 82 sophomores, 82 juniors, and 105 seniors from a large, Midwestern, urban high school (Fineran, 1996). The school had a high percentage of minority students (43 percent African American, 24 percent Latino, 14 percent white, 11 percent Asian, and 6 percent other or unidentified). Students were asked about any sexual harassment they experienced, perpetrated, or witnessed. Other questions asked how upset or threatened they were by any harassment they endured as victim or witness and about the nature of any relationship between themselves and the

perpetrator(s). Students also completed two scales measuring beliefs about personal and gender-based power.

The study found that 84 percent of the students had experienced peer sexual harassment (87 percent of the females and 79 percent of the males). Three-fourths (75 percent) of the students reported perpetrating sexual harassment. The boys were twice as likely as the girls were to report perpetrating sexual harassment. More than half (60 percent) of the harassing incidents were perpetrated by a schoolmate the target knew casually, 25 percent were perpetrated by students in dating or ex-dating relationships, and 15 percent were perpetrated by a schoolmate whom the target did not know (Fineran and Bennett, 1995).

The results of this study cannot be generalized to other high school populations because the study surveyed a convenience sample of students.

Roscoe, Strouse, and Goodwin (1994)

This study, conducted by Roscoe, Strouse, and Goodwin (1994), surveyed 561 white students (281 females and 280 males) in a Midwestern intermediate school. The students ranged in age from 11 to 16 years. Students were asked whether they had experienced peer sexual harassment and about their acceptance of sexually harassing behaviors. The survey consisted of 13 questions and addressed the following specific harassing behaviors: sexual comments, teasing, sexual gossip/rumors, phone calls, pressure for dates, touching, rubbing, pinching, grabbing, pushing, sexual advances, pressure for sexual activity, and sexual assault. Nearly half (43 percent) of the students reported that they had experienced peer sexual harassment (50 percent of females and 37

percent of males). The study also found that both boys and girls found sexual harassment unacceptable.

The results of the study cannot be generalized to other school populations because data were collected from a small convenience sample.

New Jersey (1995)

Using the AAUW/Harris instrument, this study surveyed all 711 students (46 percent female and 54 percent male) in a single New Jersey high school (“Sexual harassment in a New Jersey high school,” 1995). The students were divided among grades 9 (25 percent), 10 (34 percent), and 11 (32 percent). The report does not indicate the grade of the remaining 9 percent. The self-reported racial breakdown of the students was white/Caucasian, 64 percent; African American, 10 percent; Asian, 10 percent; other, 10 percent; and unidentified, 6 percent.

Three-fourths (76 percent) of the students believed that sexual harassment happened in their school, while 73 percent had personally experienced it. Most of the reported episodes of harassment occurred in public places: 47 percent in the hallways and 29 percent in the classroom. The results from this one school in New Jersey were in general agreement with the original AAUW/Harris study, although the reported levels of sexual harassment were slightly lower in the New Jersey school than in the national sample.

Shakeshaft and doctoral students (1992–1995)

The research of Charol Shakeshaft at Hofstra University with a team of graduate assistants from 1992–1995 looked at 1,000 middle and junior high school students in eight schools on Long Island, New York (Shakeshaft, 1997). Unlike other studies that have

relied on paper-and-pencil surveys to gather data, this team of researchers gathered data from naturalistic observations and interviews. Students and school administrators from a cross-section of socioeconomic classes, races, and high- and low-achieving school districts were observed in school and interviewed both in and out of school.

A key finding from this study was that girls were more likely to be made fun of because of their appearance, while boys were more often teased because of their actions or behavior. Girls tended to be targeted for harassment if they were unattractive or unfashionable, or, on the other hand, if they were more physically mature than their peers and therefore coded as pretty or fast sexually. Boys were targeted if they did not fit the stereotypic masculine mode (Shakeshaft, 1997).

One limitation of this study was its use of the term “peer abuse,” the definition of which did not correspond to either the legal definition of “sexual harassment” or “child (sexual) abuse.” Moreover, there was no published breakdown of the observations or interviews by gender and no published interview schedule or coding scheme. The research has been presented in very preliminary ways, without much substantiation.

Disabled students and the experience of sexual harassment

Russo (1996)

One piece missing from research on sexual harassment in schools is an examination of how sexual harassment affects disabled students. A small pilot study of sexual harassment of students with physical disabilities has begun to fill that void. Russo (Disabilities Unlimited Consulting Services) interviewed girls and boys between the ages of 15 and 22 in New York City during the 1994–95 school year (Russo, 1996). All the students in the study (19 girls and 7 boys) were participating in one of five after-school

programs at a single high school. Data were collected from focus groups, individual interviews, and a paper-and-pencil survey instrument.

The portrait of sexual harassment that emerged was not dissimilar to that described by studies of nondisabled students. Most harassers were boys; most targets were girls, and the harassment was more likely to occur in public with witnesses rather than in private settings. Many of the disabled girls in the study reported being harassed by nondisabled boys. The students in the study reported equal numbers of episodes of adult-to-student harassment and student-to-student harassment. Many of the adults involved were unique to the special education setting, such as paraprofessionals, health aides, and van drivers (Russo, 1996). These findings suggest that boys and girls with disabilities possibly face higher rates of harassment by adults employed by their schools than their nondisabled counterparts (Russo, 1996).

Harassment of gay, lesbian, and bisexual students

Almost no data have been collected on the sexual harassment of gay, lesbian, and bisexual students. Massachusetts and Washington State have collected some data on the subject, and quite a number of incidents have been reported to advocacy organizations such as the Gay, Lesbian, and Straight Education Network (GLSEN). Wisconsin (1985) and Connecticut (1997) passed laws to protect the civil rights of gay and lesbian students, but neither State has released official incidence data on the harassment of homosexual students. Therefore, all of the information that follows came from two advocacy organizations, GLSEN and The Safe Schools Coalition.

Gay, Lesbian, and Straight Education Network (1997)

In September 1997, GLSEN issued a national report card rating how well gay and lesbian students were being protected by their schools (GLSEN, 1997). The report card was based on data collected by 62 GLSEN chapters from 128 districts in 20 States. To assess the degree of protection afforded gay and lesbian students, GLSEN collected information on whether schools had policies in place that (1) protect homosexual students and teachers from harassment and discrimination; (2) provide staff with workshops and training; (3) provide accurate and age-appropriate information on homosexuality in school libraries; (4) support extracurricular activities and clubs for gay and lesbian students; and (5) offer an accurate and inclusive curriculum. The GLSEN report card gave the schools it assessed an overall grade of C, and half of the districts reporting received a failing grade.

According to GLSEN's report card, a typical high school student hears antigay slurs as often as 25.5 times a day, and only 3 percent of faculty are willing to intervene in such incidents. Nearly 1 in 5 (19 percent) gay and lesbian students suffer physical attacks that are motivated by their sexual orientation. One in nine (13 percent) gay and lesbian students skip school at least once a month, and 26 percent drop out altogether. Because these numbers are based on self-reports to an advocacy organization, they may overestimate the hostility of the school environment for most gay and lesbian students. Nonetheless, it is clear that many gay and lesbian students endure sexual harassment and violence while trying to receive an education.

The advocacy work of organizations such as GLSEN and recent legal actions (see the section on lawsuits and complaints below) taken by students against their school systems for failure to protect them from harassment, have brought attention to the discrimination, harassment, and violence suffered by gay and lesbian students.

Safe Schools Coalition in Washington State (1997)

The Safe Schools Coalition in Washington State is an advocacy project sponsored by dozens of organizations, including the Seattle Public Schools, the Washington Education Association, and the Seattle–King County Department of Public Health. Since January 1994, the Coalition has been collecting data from students who call into a statewide toll-free hotline established to collect reports of incidents of sexual harassment or sexual violence against homosexuals and bisexuals that have happened on school property or at school-sponsored events. The project defines antigay sexual harassment as harassment on the basis of actual or perceived sexual orientation and harassment involving the use of antigay epithets.

Incidents reported to the hotline from January 1994 through June 1997 numbered 91. Callers ranged from 7 years of age through adult teachers and guest speakers. About half the callers were male (Reis, 1997). Altogether, 75 percent of respondents who indicated a racial identity could be described as white and 25 percent as people of color (“African American” or “Black,” “Black/White/Chinese,” “Hispanic,” “Hispanic/Creole,” “Hispanic/White,” “Korean/White,” “Lakota,” “Native American,” “Native-American/Caucasian,” “Indian/African-American,” or “Multiracial”). Statewide, 77 percent of public school students are white, and 23 percent are people of color (Reis, 1997).

Reported incidents originated from across the State, including 59 public schools (including one Indian reservation school), 1 private school, 9 counties, and 30 school districts. Eight of the school districts were mostly rural, with 1,000 to 5,000 students; 16 were middle-sized districts that serve suburban areas and small metropolitan areas with

5,000 to 20,000 students each, and the remaining 6 were among the largest districts in the State, serving 20,000 to more than 40,000 students each.

Reports included 8 gang rapes, 19 physical assaults (resulting in the conviction of 5 assailants), 14 incidents of physical harassment and/or sexual assault short of rape, 34 cases of ongoing verbal and other harassment, and a number of others involving name calling and offensive jokes.

Since all of the incidents were self-reported, the findings cannot be generalized to other populations.

Adult-to-student sexual harassment in schools

Several of the national and State surveys on sexual harassment distinguished between sexual harassment among students and sexual harassment perpetrated by adults against students. The study based on the 1993 AAUW/Harris poll found that, of the 81 percent of students who said they were targets of sexual harassment in school, 18 percent were harassed by a school employee. Girls were more likely than boys to report being the target of harassment by an adult: 1 in 4 girls (25 percent) and 1 in 10 boys (10 percent) had been targeted by school employees. Distinctions by race also emerged, with 33 percent of African-American girls reporting harassment by a school employee, compared to 25 percent of white girls and 17 percent of Hispanic girls (AAUW, 1993).

In the Connecticut study, of the 427 students who reported receiving some unwanted sexual behaviors in school, 282 responded to the question that probed for the most upsetting incident. Of those 282, 3.5 percent reported that the most upsetting incident was perpetrated by a teacher, coach, or staff member (Permanent Commission on the Status of Women, 1995).

In the study published in “Seventeen” magazine, 3.7 percent of the girls reported that their most serious sexual harassment experience was perpetrated by a school employee: 3 percent (58) cited teachers or counselors; 0.4 percent (8) cited school administrators; and 0.3 percent (7) cited other school staff. All but one of the adult harassers were male (Stein et al., 1993).

In the Texas study, 11 percent of the students surveyed indicated that a school employee had perpetrated the most serious incident of sexual harassment they had experienced (Texas Civil Rights Project, 1997).

False complaints

The specter of false complaints could serve to undermine efforts to implement sexual harassment policies and procedures in America’s schools and to trivialize the genuine reports that students bring to the attention of the school officials. To date, no studies in K–12 schools have attempted to estimate the proportion of sexual harassment complaints that are made in bad faith, and the attempt to extrapolate from higher education to K–12 is fraught with difficulty.

Existing evidence of false complaints comes from studies conducted at institutions of higher education. These studies have concluded that false complaints are rare. The most recent such study was conducted in 1984 by the Indiana University Office of Women’s Affairs. The study found that false complaints made up approximately 5 percent of all complaints filed (Robertson, Dyer, & Campbell, 1988).

The study surveyed the university officials responsible for receiving and investigating reports of sexual harassment. These officials were asked, “How many complaints, if any, have you received which were proven to be intentionally fabricated?”

Roughly 4 in 5 (82 percent) respondents reported that they had not received any false complaints. Overall, the study found 64 false complaints during the 1982–83 academic year, as compared to 425 “documented” reports and 760 “estimated” reports (Robertson et al., 1988).

Another theory perhaps better explains the phenomenon of false complaints in K–12 schools. Whether directing the charge of sexual harassment against their peers or against teachers, students are well aware that they can garner attention and get everything to come to a screeching halt if they label an incident “sexual harassment.” Students could be misapplying the label “sexual harassment” to incidents that would best be described as “sex discrimination.”

Students and adults alike are familiar with the term “sexual harassment,” but not necessarily “sex discrimination.” The latter expression is not in the common parlance of most students, except those who are aware of athletic budgets that are disproportionately divided between the boys’ teams and girls’ teams. Students also know that they can get attention by labeling particular incidents and behaviors “sexual harassment.” In some ways the students are reading the culture accurately. How often in the last 20 years of Title IX before the *Franklin* decision in 1992 did anything come to a standstill if it was called “sex discrimination?” Not often.

The impact of sexual harassment: Educational, emotional, and behavioral

The most detailed information about the impact of sexual harassment on the lives of students comes from the AAUW/Harris poll (1993). This study examined the impact in three domains: educational, emotional, and behavioral. Table 2 reveals the educational impact on both boys and girls.

Table 2: Educational Impact of Sexual Harassment at School Among Those Reporting Any Sexual Harassment at School

	Boys	Girls
Not wanting to go to school	12%	33%
Not wanting to talk as much in class	13%	32%
Finding it hard to pay attention in school	13%	28%
Staying home from school or cutting a class	7%	24%
Making a lower grade on a test or paper	9%	23%
Finding it hard to study	9%	22%
Making a lower grade in class	6%	20%
Thinking about changing schools	6%	18%
Doubting whether you have what it takes to graduate from high school	4%	5%

Source: AAUW, 1993

The most common effect of sexual harassment was the desire to avoid school, reported by 33 percent of the girls and 12 percent of the boys. Nearly 1 in 4 girls (24 percent) stated that harassment prompted them to stay home or cut a class, and 32 percent of the girls said they did not want to talk as much in class. Both gender and race distinctions emerged between those who talked less in class and those who did not. While 32 percent of the girls spoke less in class, only 13 percent of the boys were similarly affected. Of the African-American girls in the sample who reported being harassed, 42 percent indicated that they wanted to talk less in class as a result of the harassment. By comparison, 35 percent of the harassed Hispanic girls and 30 percent of the harassed white girls reported talking less (AAUW, 1993).

Details of the emotional impact of sexual harassment are in Table 3.

Table 3: Emotional Impact of Sexual Harassment at School Among Those Reporting Any Sexual Harassment at School

	Boys	Girls
Feeling embarrassed	36%	64%
Feeling self-conscious	21%	52%
Being less sure of yourself or less confident	14%	43%
Feeling afraid or scared	8%	39%
Doubting whether you can have a happy romantic relationship	12%	30%
Feeling confused about who you are	9%	25%
Feeling less popular	13%	18%
Feeling more popular	8%	16%

Source: AAUW, 1993

Harassed girls were more likely to report each of the emotional effects than harassed boys were.

Table 4 shows the behavioral impact.

Table 4: Behavioral Impact of Sexual Harassment at School Among Those Reporting Any Sexual Harassment at School

	Boys	Girls
Avoiding the person who bothered/harassed you	27%	69%
Staying away from particular places in the school or on school grounds	12%	34%
Changing your seat in class to get farther away from someone	12%	31%
Stopping attending a particular activity or sport	6%	17%
Changing your group of friends	6%	14%
Changing the way you come to, or go home from, school	6%	14%

Source: AAUW, 1993

Conclusion from the research

Well-substantiated evidence that sexual harassment is widespread in schools

Students, whether they are the targets, witnesses, or perpetrators of harassment, overwhelmingly acknowledge the existence of sexual harassment in their schools. There is no shortage of evidence pointing toward a firm and well-substantiated conclusion that sexual harassment in schools exists and is rampant and that the targets (predominately girls) are not passive in the face of this harassment. (See appendix A for a summary of

sexual harassment surveys, including results and conclusions and appendix B for an analysis of types and prevalence of sexual harassment as reported in three studies.)

Schools as the training grounds for domestic violence

The surveys reveal that sexual harassment in schools has become ordinary, expected, and public. Rarely confined to private, “secret” interactions, sexual harassment takes place most commonly in full and plain view of others. Students recognize that adults often witness episodes of sexual harassment and expect adults to see and feel these violations as they do. Yet, many students (particularly the girls) cannot get confirmation of their experiences from school personnel because most of those adults do not name it “sexual harassment” and do nothing to stop it (Stein, 1992b; 1993; 1995).

In addition, these surveys also demonstrate girls’ repeated efforts to get adults to see and believe what is happening right before their eyes and to do something about it. The young women begin to sound ominously like battered women, who are not believed or helped by the authorities and who feel alone and abandoned. Statements gleaned from the open-ended questions from the “Seventeen” magazine survey on sexual harassment suggest this troubling connection, but there are no longitudinal studies that establish such a connection.

The studies also suggest that schools are possibly training grounds for the insidious cycle of domestic violence. Girls are trained to accept this battering and assault and are taught that they are on their own. They quickly learn that the adults and others around them will not believe or help them. Similarly, boys receive permission, even training, to become batterers. Girls (and sometimes, boys) who are the targets of sexual harassment, find that when they report sexual harassment or assault, they are demeaned and/or

interrogated, while the events are trivialized. Harassers, on the other hand, get the message that, because adults around them fail to intervene, they have tacit permission to continue with their assaults. Indeed, if school authorities do not intervene and sanction the students who sexually harass, the schools could be encouraging a continued pattern of violence in relationships. The consequences of this acceptance of sexual harassment goes beyond those directly involved; a message is sent to those who observe or hear about it later that sexual harassment is permissible. Other bystanders, be they boys or girls, perhaps receive the message that they could be the next to be harassed, and no one will do anything to prevent it (Stein, 1992b; 1995). Although there has been no research that links child or adolescent sexual harassment to battering later in life, these normalized and public performances of harassment, assault, and battery in schools could have consequences for the private relationships that these young people form later in their lives.

Yet, despite the cumulative evidence from these studies, both those with well-substantiated results and those that provide only a basis for informed speculation, there seems to be a desire to continue to study the phenomenon of sexual harassment.

It is safe to assume at this point that educators can believe the results, which amounts to believing the students. It is time to expand survey research to include longitudinal studies to examine the effects of sexual harassment on its perpetrators and victims over time. In addition, studies should be undertaken to test the effectiveness of a variety of interventions designed to reduce and prevent sexual harassment.

The findings that have emerged from the research conducted to date could have been easily ignored were it not for the complaints and lawsuits that girls, young women, and, in rare instances, boys have been filing and winning in State and Federal courts in the

past decade. The interplay between these lawsuits and the surveys perhaps has made the survey results all the more powerful and credible.

Lawsuits and Complaints: New Sources of Evidence on Sexual Harassment

Even though a lawsuit is a sample size of one, there may be nothing atypical about a single lawsuit. In fact, lawsuits can be prototypical and serve as guideposts for future directions. Maybe it is time for social scientists and educators who are interested in documenting the problem of sexual harassment in schools to regard lawsuits as a new form of evidence and as material that holds valuable lessons.

A summary of the major Federal lawsuits and the complaints filed through the OCR of the U.S. Department of Education has produced evidence that documents the impact of sexual harassment on the lives of the targets. Among the consequences of sexual harassment that have been stipulated through lawsuits are—

- absenteeism
- dropping out of a particular class or school
- lower grades
- sleeplessness and physical symptoms or complaints
- fear of separation from adults, either parents or school personnel (for example, refusing to take the school bus, refusing to participate in recess, asking to stay in the classroom or be sent to the principal's or nurse's office during recess, refusing to eat lunch in the cafeteria, and choosing to stay in the classroom or library during lunch)
- depression
- weight loss or gain

- threats to commit suicide.

Students also have expressed a lessening of trust toward adults and in their beliefs that school is a safe and fair environment. They felt betrayed, trivialized, and dismissed if and when they told school personnel about incidents of sexual harassment they had experienced. These lessons can linger far beyond the actual episodes of the sexual harassment: trust of adults is eroded, school is a place to be avoided, and justice is not delivered.

Granted, some of the evidence gleaned from lawsuits is biased in that it is provided by the plaintiff or the experts who have been hired by the plaintiff's attorney. On the other hand, the opposing counsel's grueling interrogation of the plaintiff (especially in the discovery or deposition phase of the case, when there is no judge or jury present) makes the process of proceeding with a lawsuit very difficult and leaves the pursuit of lawsuits to those plaintiffs and their parents who are particularly zealous and motivated. Thus, it is unclear whether lawsuits are typical. Even so, there are many lessons to be drawn that could spare others from heading in the same direction in the *future*. To that extent, the lessons that can be derived from the lawsuits should not be dismissed, whether these cases are won, lost, or settled out of court.

Sexual harassment lawsuits: U.S. Supreme Court rulings in *Franklin* and *Davis*

It takes only one influential lawsuit to change the landscape and discourse. Such a sea change occurred with the landmark 9–0 decision of the U.S. Supreme Court in February 1992 in the *Franklin v. Gwinnett County (GA) Public Schools* case, bringing accelerated attention from school administrators to the problem of sexual harassment and sex discrimination in schools.³ Seven years later in May 1999, a decision from the U.S.

Supreme Court in the *Davis v. Monroe County (GA) Board of Education* case, the Court ruled on school district liability in peer-to-peer sexual harassment cases. In a 5-to-4 decision, the Supreme Court ruled that schools are indeed liable for student-to-student sexual harassment when they know about the harassment and fail to stop it.

Beyond the power and precedent that two lawsuits can establish, narratives and anecdotal information from girls and young women parallel the experiences of sexual harassment in schools that are documented in the lawsuits and complaints. In other words, there is nothing atypical about the lawsuits (Lawton, 1993, 1996; Lewin, 1994, 1995; Stein, 1995).

Prototypical lawsuits and complaints: Themes and contradictions

In each of the lawsuits and complaints discussed in depth in this section, the three main themes that emerged from the “Seventeen” study—the public nature of sexual harassment, the nonpassive (in other words, active) responses of the targets, and the denial or trivialization by school officials—are echoed. Almost without exception, each incident of sexual harassment outlined in the lawsuits or complaints took place in public; the targets were not passive (they either stood up to the harasser or told someone); and without exception, the school officials trivialized and minimized the incident or denied that sexual harassment took place. Whether the targets or perpetrators were male or female, and regardless of their age (age six through late teens), with or without the involvement of their parents, school officials typically issued denials about the presence of sexual harassment in their buildings.

Of the nearly two dozen salient cases discussed in this and the following sections, seven emanated from boys (one in elementary school, one in middle school, and five in

high school), whose harassment came from other boys. Five cases involved elementary school students (4 girls and 1 boy), 5 cases came from middle school (3 girls and 2 boys), and 12 from high school (3 of which involved boy plaintiffs, and 2 cases which involved same-sex, girl-to-girl harassment). Only 1 of these 22 cases involved conduct that happened in a private setting, without bystanders. All but one of these cases had only one plaintiff; the exception was one case that involved a group of high school girls who initiated joint litigation and won in an out-of-court settlement (*Krengel v. Santa Clara [CA] Unified School District*). However, this unusual case is typical in one dimension because like many other lawsuits, it, too, was settled out of court, a condition that often imposes restrictions of confidentiality on the parties. Although out-of-court settlements spare the parties a lengthy, expensive legal process, these agreements also serve to deny the public access to all the lessons that could be derived from a particular case, thus ensuring that school officials not repeat the same mistakes.

In one case that is often cited in popular magazines and teen literature and on television talk and news shows, Katy Lyle, a 15-year-old at Duluth Central High School in Duluth, Minnesota, was targeted through nasty graffiti that covered the walls of a stall in the boys' bathroom on the third floor of the high school (*Lyle v. Independent School District #709*, 1991). The graffiti included very offensive remarks about sexual activities in which Katy supposedly participated. Additionally, boys would yell out across the hallways about the graffiti and girls would wonder what Katy Lyle had done to “deserve” this.⁴ She was tormented daily on the school bus and as she entered the school (LeBlanc, 1992).

Despite repeated requests from Katy Lyle and her parents to the principal to have the graffiti removed, it remained on the walls for 16 months. The principal's responses

included, “No one reads it anyhow,” and “It’ll make you a stronger person.” He also claimed that his hands were tied by the custodians’ union contract, which made provision for the walls to be repainted only once every 2 years and because they had just completed a painting assignment, they could not paint over that graffiti. Finally, her older brother, home from college during a vacation, removed the graffiti in a matter of minutes. Although the physical evidence was removed, the taunting continued.

In a 1991 settlement with the Minnesota Department of Human Rights, Katy Lyle and her family were awarded \$15,000, and the school district agreed to implement training programs for staff and students and to develop and disseminate a sexual harassment policy. They also agreed to appoint an administrator to coordinate these efforts.

Another widely publicized case from Minnesota (*Mutziger v. Independent School District #272*, 1992; also cited as *Eden Prairie School District #272*, 1993) involved the youngest child to file a sexual harassment complaint. In this case, both the Minnesota Department of Human Rights and the OCR found that a 6-year-old girl, Cheltzie Hentz (and eventually several other girls), had been sexually harassed on the bus, on the school grounds, and in the classroom by boys who ranged in age from 6 through 13. The perpetrators were accused of making lewd remarks and sexual taunts, including references about girls’ body parts and explicit suggestions about Hentz’s having oral sex with her father.

This case became notable for the age of the target and the age of the perpetrators; Cheltzie Hentz was and remains the youngest child to file and win a sexual harassment complaint. In the stunning decision rendered by OCR, the “reasonable woman standard” was invoked to apply to 6-year-old children.⁵

From the standpoint of a reasonable female student participating in district programs and activities . . . [,] the sexually offensive conduct was sufficiently frequent, severe, and/or protracted to impair significantly the educational services and benefits offered[.] . . . In this case, there is no question that even the youngest girls understood that the language and conduct being used were expressions of hostility toward them on the basis of their sex and, as a clear result, were offended and upset (*Eden Prairie School District #272*, 1993).

In this case, all of the events occurred around adults—either the bus driver or bus monitors, or in the case of classroom incidents, in the presence of the classroom teacher. As part of the investigation, other girls were interviewed about the same boys who were accused of harassing Cheltzie Hentz. According to the OCR finding

During a social studies class, a seventh grade male student repeatedly made remarks of a sexual nature . . . touched the girls, and on one occasion, physically restrained one of them so that she could not escape his lewd remarks. According to the female students, the teacher witnessed the harassment, but was unresponsive to their requests for assistance. The teacher's response was to offer to change the boy's seat. According to the students, the boy's seat already had been changed numerous times as girls reported that he was bothering them (*Eden Prairie School District #272*, 1993).

Again, adults watched, students appealed for help, and adults offered ineffective solutions.

The behavior of school personnel is mentioned in most Federal lawsuits. For example, in a 1992 lawsuit in Federal district court in Connecticut, Johana Mennone, a student at Amity Regional High School in Woodbridge, Connecticut, alleged that

In the presence of her teacher and a roomful of classmates, a male student grabbed her hair, legs, breasts, and buttocks nearly every day. He repeatedly made remarks about her breasts and told her that he was going to rape her. (Lawton, 1993, p. 1)

Again, a teacher watched while outright assaults took place in the classroom. In a June 15, 1995, ruling in Federal district court, Judge Gerald L. Goettel held that school personnel could be held liable for failing to prevent sexual harassment between students (*Mennone v. Gordon*, 1995). Along with another case in Connecticut with similar facts, but with middle

school students as the protagonists and plaintiff (*Stern v. Milford*, 1993), settlements were reached out of court in 1996, in favor of the plaintiffs.

A most unusual case emerged in Santa Clara, California, unique not for the particulars of the allegations against the high school boys and the school officials, but because the girls involved acted collectively in their outrage and ultimately shared in their victory. The case, known as the Teddie Bears (*Krengel v. Santa Clara Unified School District*, 1997) entered popular teenage culture largely because it was the subject of a made-for-television film⁶ and an article in “Seventeen” magazine (Ratcliffe, 1996).

The Teddie Bears, an 18-year tradition at Santa Clara High School, was an all-female sports club that attended all the varsity football games and compiled statistics for the players. The girls alleged sexual harassment, verbal insults, and assault by the football players. Beginning in October 1995, the girls began a process of reporting the sexual harassment incidents to the football coach, vice principal, principal, superintendent, and school board. After being told by the principal that he could not assure their safety, the 15-member squad resigned en masse.

With the exception of three boys who were suspended for the creation and distribution of a “slam book” (a handmade book filled with sexually degrading pictures of girls accompanied by vulgar written comments), the other harassers were not disciplined (Gaura, 1996). Interestingly, the school did not take any disciplinary actions against the harassers until some of the girls had filed a civil law suit. This case not only typifies the denial of sexual harassment in schools, but also the privileging of male athletes in high schools (Lefkowitz, 1997; Benedict, 1997).

Before taking legal action, the parents of the girls had taken their complaints to the

Santa Clara District Attorney's office, hoping to pursue the matter as a criminal complaint (Gaura, 1996). That route proved futile. However, with the added weight of the intervention of the U.S. Justice Department, the case was settled out of court. The terms of the settlement are confidential, but money did change hands (Gaura, 1997). The Teddie Bears sports club has not been revived since the 15 girls resigned in October 1995.

The outcomes of some of the lawsuits discussed here appear to be filled with contradictions. Sometimes the outcomes of the various cases make it seem that Americans are divided into different countries. A set of facts in one part of the country renders a decision in one direction from a Federal court, while in a different part of the country a similar set of facts leads a Federal court to the opposite decision. In other instances, the OCR of the U.S. Department of Education, the Federal agency charged with investigating sexual harassment complaints, will find in one direction while the State agency that is charged with investigating discrimination issues an opposite decision. Rather than dismissing this as a classic case of "the left hand not knowing what the right hand is doing," these inconsistencies seem to be examples of our society attempting to make law about new problems.

In the middle of Iowa, two cases (*Burrow v. Postville Community School District* and *Wright v. Mason City School District*) were filed as Title IX violations (Fuson, 1994). The case of Lisa Burrow was heard by a Federal jury, who found that the school was not liable for the harassment ("Iowa school district not liable," 1997).

However, in the *Wright* case, the Federal court judge reversed the decision of the jury. A Des Moines jury heard the case that alleged peer sexual harassment (*Wright v. Mason City School District*, 1996) and in June 1996 awarded Heather Wright, the plaintiff

in the case, a sum of \$5,200 plus all attorney's fees. The jury had concluded that a hostile environment of peer sexual harassment existed and that the school district failed to protect her from it (Simbro, 1996). In a rather stunning turn of events, the U.S. Federal Judge John Jarvey reversed the decision of the jury, ruling that victims of student-to-student harassment must show that the school not only knew about the harassment but also intentionally did nothing to stop it (“Student failed to show school district’s intent,” 1997). Furthermore, in his opinion the judge appealed for clarity from Congress:

Given the enormous social implications for students, school and parents, this court wishes that Congress would step in and simply tell us whether it intended to make school districts responsible for the payment of damages to students under these circumstances[.] . . . Knowing that that will not occur, the court [has done] its best to decipher congressional intent. (“Iowa judge overturns jury verdict for victim,” 1996)

Compounding the lack of clarity articulated by the Federal judge in Iowa, contradictory rulings have emerged from different Federal court jurisdictions, thereby adding to the confusion about peer-to-peer sexual harassment. Two Federal Circuit Courts of Appeals (the fifth and the eleventh) have issued similar opinions, yet their decisions disagree with opinions that have come from two others (the seventh and the ninth).

Circuit court opinions

The Federal Circuit Courts of Appeals have been locked in a disagreement—the second, fifth, and the eleventh have issued decisions opposite to those of the seventh and the ninth.

Eleventh and fifth circuits

In a case in Georgia, known as *Davis v. Monroe County (GA) Board of Education* (1994), U.S. District Judge Wilbur D. Owens, Jr., of Macon, Georgia, ruled on August 29, 1994, that the school district was not liable for a fifth grade student's alleged

harassment of another student. He dismissed the case on the grounds that the school did not have a special custodial relationship with its students and had no special duty to protect them from other students (Walsh, 1994). The complainant had alleged that school officials were slow to react to the harassing conduct by a boy who repeatedly tried to touch a girl's breasts, rubbed his body against hers, and used vulgar language.

Yet, on February 14, 1996, the Eleventh Circuit Court of Appeals overturned the district court's decision. Argued by Verna Williams, senior counsel with the National Women's Law Center on August 30, 1995, the circuit court in a 2-to-1 decision overturned Judge Owen's decision and sent the case back to him for trial. Writing for the majority, Judge Rosemary Barkett wrote, "A female student should not be required to run a gauntlet of sexual abuse in return for the privilege of being allowed to obtain an education" (*Davis v. Monroe Country Board of Education*, 1996). However, the school district appealed the decision, and the decision was vacated, pending a rehearing on October 23, 1996, before the full Eleventh Circuit Court.

On August 21, 1997, the full Eleventh Circuit Court of Appeals issued its decision in the Davis case (*Davis v. Monroe Country Board of Education*, 1997). In a 7–4 decision, the court asserted that school districts are not liable for failing to stop student-to-student sexual harassment. This decision applies only to schools in the eleventh circuit, which covers Florida, Georgia, and Alabama, and agrees with decisions from the fifth circuit, which covers Texas, Louisiana, and Oklahoma. However, the majority noted that 10 district courts have ruled to the contrary—that schools can in fact be held liable for peer harassment. This case was heard by the U.S. Supreme Court in January 1999 as the first peer-to-peer sexual harassment case to go before the high court (*Davis v. Monroe*

County (GA) Board of Education, 1998).

On May 24, 1999, in a 5-to-4 decision, the U.S. Supreme Court ruled that school districts are liable for monetary damage awards in cases of student-to-student sexual harassment if they knew about it and did nothing to stop it. Justice Sandra Day O'Connor said: "Damages are not available for simple acts of teasing and name-calling among schoolchildren" but rather for behavior "so severe, pervasive and objectively offensive that it denies its victims the equal access to education" guaranteed under Title IX of the Education Amendments of 1972 (Greenhouse, May 25, 1999, p. 24).

Concurring with the eleventh circuit was an opinion issued in April 1996 by the Fifth Circuit Court of Appeals. In *Rowinsky v. Bryan (TX) Independent School District* (1996), two sisters who had been eighth grade students claimed that they had been tormented throughout the 1992–93 school year by a boy on their school bus who had grabbed at their breasts and genitals and who used foul and lewd language (Walsh, 1996a). The girls' parents complained regularly to school officials. However, the Federal district court dismissed the original lawsuit, and the U.S. Court of Appeals, in a 2-to-1 decision, upheld that decision, saying that the girls had no claim under Title IX because the harassment was not conducted by school employees.

Ninth and seventh circuits

However, in the ninth circuit, which covers California, Oregon, Washington, and Alaska, a totally different standard of liability emerged. In the case, *Oona v. McCaffrey* (1997), the U.S. Circuit Court of Appeals held that administrators can be held individually responsible for failing to stop sexual harassment. This stunning decision strips government officials of qualified immunity when they violate constitutional rights. Quoting from the

opinion, the court said, “A school official in a supervisory position cannot claim immunity for the failure to respond to complaints of harassment” (“Court carves new path in sexual harassment cases,” 1997).

This case arises from a lawsuit against the Santa Rosa, California, school district by the parents of a sixth grade girl. The parents sued her teacher, the principal, and the director of elementary education because they failed to remove a student teacher from the classroom after he had been accused of fondling their daughter in class and lowering her grades after she complained.

In addition, their lawsuit also claimed that the school district is liable for failing to prevent other students from sexually harassing the girl. The harassment from the other students included subjecting the sixth grade girl to hostile comments. Her body parts were given derogatory names, and she and other girls in the class were called slang terms for “prostitute” (“Suit proceeds against individual officials,” 1997). Moreover, one male student hit the plaintiff in the face and told her to “get used to it.” The school district knew of both the harassment emanating from the student teacher and the other students and had failed to prevent this behavior. These facts were deemed “sufficient to show violations of clearly established Title IX rights” (“Suit proceeds against individual officials,” 1997; Walsh, 1997a).

On March 3, 1998, a decision was issued by the seventh circuit in the case of a young woman who had been subjected to ongoing peer sexual harassment by a group of boys in her public high school sponsored by the University of Illinois (*Jane Doe v. University of Illinois*, 1998). The circuit court did not rule on the sufficiency of her allegations of sexual harassment but rather on the standard of liability for the school

personnel (*Jane Doe v. University of Illinois*, 1998). It held that schools have an obligation to intervene when they have actual knowledge and that failing to take action will incur liability. Moreover, the seventh circuit refused to rehear the case en banc (meaning that all the judges in the circuit would hear the case, not just the standard panel of three), thus making their ruling stand as law for all States in the seventh circuit (Illinois, Indiana, and Wisconsin) (Bauer, 1998).

Elsewhere: New York State and Utah

These forceful decisions from the seventh and ninth circuits are in opposition to the decisions rendered by the fifth and eleventh circuits and will necessitate clarification from the Supreme Court. In the meantime, contradictory decisions are free to reign in other circuits, including totally different applications and interpretations of Title IX and sexual harassment law to the schools. In fact, it is not uncommon for Federal district court judges to mention that their circuit court has yet to rule on the matter and provide them with guidance (“Court rules New Hampshire school district may be liable,” 1997).

Echoing the Federal district court judge in Iowa who asked for clarification from Congress, it seems that other Federal court judges are asking not only their circuit courts but also the Supreme Court for clarification.

For example, on the Federal district court level, two recent decisions—one in New York State, and the other in Utah, neither of which comes from the circuits that have rendered decisions discussed above—offer striking contradictions.

On November 15, 1994, Thomas J. McAvoy, Chief Federal Court Judge for the Northern District of New York in Albany, issued a ruling that held teachers and administrators liable and responsible for preventing student-to-student sexual harassment

in schools. In this case, *Bruneau v. South Kortright (NY) Central School District* (1996), the court ruled that a sixth grade girl who was taunted with sexual comments ("prostitute," "dog-faced bitch," and "lesbo") and physically abused by boys in her class could sue her teacher and an assistant superintendent under 42 U.S.C. Section 1983 of the Civil Rights Act of 1871.⁷ This ruling permitted her to proceed with her lawsuit against the school district under Title IX with the door open to recover compensatory damages, punitive damages, and attorney fees. The school district was found liable in the New York case because teachers and administrators were alerted to the assaults but took no action. In fact, when the girl's parents complained to their daughter's teacher of the abusive behavior, they were told "that the boys would be all over her in a few years" (Jones, 1994). The parents requested assistance from the assistant superintendent of the school district following this meeting with the teacher, but again, no attempts to remedy the situation were made. When the parents asked that their daughter be allowed to transfer to another class, their request was denied. At that point, the girl transferred to another school, and the parents took legal action. The judge's ruling in this case provides that a plaintiff can proceed against a school district if the district's inaction (or insufficient action) in response to complaints of student-to-student sexual harassment is the result of an actual intent to discriminate against the student on the basis of sex.

However, when the Bruneau case finally was tried before a jury in November 1996, the jury found in favor of the school district and against the teenage girl. In its ruling, the U.S. Court of Appeals for the Second Circuit upheld the decision of the district court (*Bruneau v. South Kortright Central School District*, 1998).

On the other side of the country, around the same time in October 1994, the U.S.

Federal District Court in Utah refused to allow a locker room incident, directed at one football player by his fellow teammates, as an actionable case of hostile-environment sexual harassment. In Judge Benson's decision, the lawsuit against the Sky View High School and the Cache County (UT) School District was dismissed on the grounds that the boy failed to prove that he had been a victim of any concerted discriminatory effort (*Seamons v. Snow*, 1994).

In the fall of 1993, after a football game, the young man, Brian Seamons was restrained by four of his teammates and painfully taped naked to a towel rack after he left the shower area. He was further humiliated when a girl was involuntarily dragged in to view him (Brown, 1995; "Court dismisses male student's Title IX harassment claim," 1994). Seamons claimed that this traditional team ritual, which was imposed on any player who moved from second to first string, was well known to the coach and school officials.

School authorities continued either to excuse the behavior as gender appropriate ("boys will be boys") or merely a case of team hazing. Seamons was blamed for bringing the incident to public's attention. The football coach reacted to Seamons's complaints by first suspending, then dismissing him from the football team. The next day, the superintendent canceled the remaining football games, prompting the coach, Douglas Snow, to demand that Seamons apologize to the team for this course of action. Neither Snow nor any of the football players were disciplined for their behavior in this incident. In fact, Snow stated publicly that "it was inappropriate to impose discipline on the other players for hazing." Sadly, retaliation to both Brian Seamons and his family caused him to transfer to a different school district (Stein, 1995).

The Seamons family filed a Title IX sex discrimination case against the school

district. However, the judge found no fault on the part of the coach or school administrators. In part, the decision read:

It may have been wrong, or right, or ethical, or unethical, or noble, or ignoble, but no plausible treatment theory could construe it as an act intended to treat Brian negatively because he is a boy[.]. . . Because plaintiffs have not alleged that defendants' conduct was sexual in any way. . .[the] allegations are not sufficient to base a claim of sexual harassment. (*Seamons v. Snow*, 1994)

Notwithstanding the narrow basis on which the judge decided to interpret the claim of sex discrimination, the judge could have offered some moral guidance from the bench, as judges often do.

Moreover, educators are left wondering if the gender of the participants had any bearing on the outcome of this case, from the origin of this ritual in the locker room to the decision rendered in the courtroom. The question remains for educators, if not for judges: Why should the gender of the target make any difference when the behavior is publicly performed and seemingly school-approved, gender violence (Stein, 1995)?

In an appeal to this decision, the Tenth Circuit Court of Appeals upheld the dismissal of the sexual harassment, Title IX claim, but ruled that the lower court had erred in dismissing Seamons's first amendment claim. Seamons and his parents had alleged that their freedom of speech had been violated when school officials had discouraged them from making statements to the press and had removed the young man from the football team when he refused to apologize for having informed authorities of the incident ("Administrators handling of athlete's hazing," 1996). It is worth noting that one of the opinions, by Judge Monroe McKay, doubted that the incident was not sexual in nature: "It is hard for me to believe that the display of the male genitalia to a female for other than

medical or educational reasons has a non-sexual connotation” (“School’s reaction to hazing raises free speech issues,” 1996).

Boy-to-boy sexual harassment cases

Besides the Utah case, and around the same time in still another part of the country, an 11-year-old boy was undergoing harassment from fellow middle school students. John B. in Orland, California, was harassed and assaulted by eighth grade boys, at first off school grounds. The activities later moved onto school grounds and became regular. The harassers were a group of boys and a few girls. His parents complained regularly to the principal, but over the course of the year of John B.’s torment, the middle school had three different principals, and each offered one inadequate solution after another, each abrogating responsibility for ending the harassment to the boy. All of the principals’ suggestions required changes in John B.’s conduct, rather than changes in the conduct of the harassers: suggestions that he study self-defense; that he avoid the tormentors; and a final one that hinted that if the principal were to call the tormentors into the office, the harassment would only get worse. In the words of his therapist, John B. was “suffering from nightmares, fearfulness, increased isolation and diminished ability to cope” (Seligman, 1996).

Left with no other option, in fall 1994, John B.’s parents hired an attorney who filed a Title IX action in the Federal court (*John B. v. Orland Joint Union School District*, 1996). However, in July 1996 an out-of-court settlement was reached, awarding John B. \$55,000, with no admission of wrongdoing on the part of the school district. In the meantime, like Brian Seamons in Utah, John B. moved to a different school district.

No other boy-to-boy sexual harassment cases have been filed in Federal court.

(See the following section on complaints filed through the OCR for discussion of a complaint in Minnesota, known both as the *Jonathan Harms* case and the *Sauk Rapids-Rice School District* case, that involved elementary-school-aged boys harassing a boy).

Litigation on behalf of gay students using the equal protection clause of the 14th amendment

A landmark decision was rendered in November 1996 by a unanimous jury in a Federal court case that found three school district administrators had violated the rights of a gay young man. The following day, in an out-of-court settlement, the Ashland, Wisconsin, school district agreed to award \$900,000 to former student Jamie Nabozny for the harassment that he endured for more than 4 years on school grounds (Terry, 1996; Walsh, 1996b), with \$62,000 additional funds awarded for medical expenses (*Nabozny v. Podlesny*, November 19, 1996).

This case is shocking, not merely for the torment that was inflicted on the young man on school grounds, but also for the egregious negligence demonstrated by the school officials. From 7th grade through 11th grade, when he dropped out of high school, Nabozny was subjected to violent acts of hostility based on his sexual identity (acts that included being urinated on and being assaulted by other boys who held him down while simulating a rape). School officials repeatedly mishandled or totally ignored his requests for help and intervention. One principal promised again and again to act on his complaints yet also claimed that Nabozny should get used to these behaviors since he was so openly gay. Another administrator allegedly said that Nabozny deserved this behavior (“School district reaches settlement,” 1997).

Nabozny’s case is the first of its kind for a gay or lesbian student and is also

significant because the equal protection clause of the 14th amendment (42 U.S. Code, section 1983) was used for the first time in a case involving a gay or lesbian student. Although frequently used in sexual harassment cases when a school staff member was sexually involved with a minor student, thus incurring liability on the school administrators for failure to act, supervise, or protect the minor student, never before had this law been applied to the equal protection of gay and lesbian students.

Another case that involved a gay young man settled for far less money and no acknowledgment of liability on the part of the school district. However, the case, known as *Doe v. Riverside-Brookfield (IL) School District*, did involve a financial settlement to cover Mario Doe's expenses for counseling, tutorial, and educational services (Walsh, 1997b).

A case against the Kent, Washington, school district was filed by Mark Iversen. A graduated senior from Kentwood High School, Iversen alleged that the school failed to protect him from the antigay verbal and physical harassment of other students. Harassed from the 7th grade through the 12th grade in three separate Kent schools, he was frequently called a "faggot," "queer," and "homo," had his life threatened on several occasions, and in perhaps the most shocking incident, was severely beaten in his classroom by 8 students. Similar to the Nabozny case, administrators allegedly told Iversen, (before the beating) that he had brought the harassment on himself and should expect such abuse if he acted gay (Reis, 1997).

Represented by the ACLU, Iversen's lawsuit also claimed that the school's failure to stop the harassment violated Iversen's equal protection under the 14th amendment. The lawsuit was settled on November 6, 1998, with the Kent school district agreeing to pay

\$40,000 and educate teachers and administrators about peer sexual harassment based on sexual orientation (Walsh, 1998).

More litigation on behalf of gay and lesbian students will no doubt emerge in the future (Ruenzel, 1999).

Adult-to-student sexual harassment cases using the equal protection clause of the 14th amendment plus Title IX

Many cases have traveled through Federal courts both at the district- and circuit-court-levels seeking redress for incidents of adult-to-student sexual harassment. The decisions are as contradictory as they are plentiful and varied. In large part, decisions in the fifth circuit (Texas, Louisiana, and Arkansas) and a recent one in the eleventh circuit (*Floyd v. Waiters*, 1998) have been in favor of the school district (and their employees), while decisions in other parts of the country have often held for the aggrieved students (in the third circuit, *Stoneking v. Bradford [PA] Area School District*, 1989; in the seventh circuit, *J.O., P.O. v. Alton [IL] Community School District*, 1992; and several cases discussed above from the ninth circuit). Because many cases are in flux at any given time, it is difficult to draw generalizations from them. Discussion of these cases has therefore been omitted from this paper.

However, U.S. Supreme Court issued a 5–4 ruling on June 22, 1998, in the *Gebser v. Lago Vista (TX) Independent School District* (1998; also known as *Doe v. Lago Vista Independent School District*, 1997), that involved sexual harassment (and a sexual relationship) between a student and a teacher. The case involved a ninth grade girl who had sexual relations with a teacher for more than a year. She never told school officials or her parents. The relationship only came to light when a policeman discovered them in a

parked car. The teacher was dismissed and was criminally prosecuted (Greenhouse, 1998).

The high court's split decision ruled that districts may only be held liable under Title IX if school officials in a position of authority were informed of the misconduct and then failed to act. This highly restrictive standard is even above the liability standard set for employers under Title VII. ("Good news for schools," 1998). Justice John Paul Stevens, writing in a dissent, said "The court ranks protection of the school district's purse above the protection of immature high school students" ("Opinions in sexual harassment case," 1998). This decision is also a rejection of the ED's interpretation of Title IX, which claimed that "a school district could be found liable, regardless of whether officials knew of the misconduct, if a teacher had misused his position of authority in carrying out the harassment" (Greenhouse, 1998).

Complaints filed with OCR

If this lengthy examination of legal decisions has left the reader confused, imagine the plight of the plaintiffs and all the time, effort, and money that they and their families expend. In many instances, cases drag out for 5 to 7 years, traveling with various attorneys through various courtrooms. Children grow up, move on, and graduate before some of these cases are resolved.

A totally different route of adjudication is available to aggrieved individuals through the Office for Civil Rights of the U.S. Department of Education. The supposed benefits of this route, as opposed to filing a lawsuit in Federal court, are the allegedly speedy timelines for investigations and the fact that one does not need an attorney.

Despite troubling and contradictory rulings from Federal courts, students continue to file Title IX complaints with OCR. In 1991, 11 complaints were filed against the school

districts; in 1995, that number had risen to 80. In 1996, 1997, and 1998 respectively, there were 78, 125, and 102 complaints filed. Although OCR cannot award compensatory damages to an aggrieved individual, it can compel the school district to pay for costs incurred from counseling, tutoring, transportation, and tuition for the complainant. It can also require the district to provide training for staff and students on the subjects of sex discrimination and sexual harassment. Among the hundreds of districts that OCR has investigated, letters of findings and/or settlement agreements have been issued to school districts in Petaluma, California; Victorville, California; Sweet Home, Oregon; Meridian, Texas; Reno, Nevada; Mason City, Iowa; Albion, Michigan; and Millis, Massachusetts.⁸

Same-sex sexual harassment: Girl-to-girl

Notable among OCR's letters of findings are two in which the sexual harassment incidents involved students of the same sex. Both complaints involved high school girls who sexually harassed other girls: one case from San Jose, California (*East Side Union High School District*, 1993), and the other from Bolton, Massachusetts (*Nashoba Regional School District*, 1993). The facts in both cases are strikingly similar. A single girl at each site was subjected to verbal and written sexual harassment over a period of many months. The harassment consisted of sexually explicit taunts, graffiti, and rumors of the girl's alleged sexual behavior with male students. Both young women saw their grades fall. One cut classes and altered her walking route to avoid further harassment (San Jose), and the other required private counseling (Bolton). In both cases, school officials had been informed of the harassment, yet they failed to provide a remedy.

In the Massachusetts case, the school personnel claimed that the girl was writing the graffiti about herself and/or inventing it. The school officials wanted to get a

handwriting analysis before they would believe her. According to the letter of finding from OCR in the Massachusetts case:

The student evidenced an extensive record of her numerous and repeated efforts to end the conduct. The student immediately reported the graffiti to her counselor upon discovering it in the bathroom. On her own initiative, the student weekly, and sometimes daily, reported new graffiti to the principal or her counselor, and she kept detailed notes of verbal harassment incidences. The student herself removed some of the graffiti from the bathrooms and walls. (*Nashoba Regional High School District*, 1993)

The San Jose, California, school staff had a different response and rationale. They assumed that sexual harassment could only occur “when a student approaches another student of the opposite sex and makes lewd gestures or asks for sexual favors” (*East Side Union High School District*, 1993). Moreover, they did not consider the conduct between members of the same sex to be potential sexual harassment, especially since the target and her harassers had once been friends. For all these reasons, the school district did not investigate the complaint.

In both complaints, OCR concluded that there had been pervasive, persistent, and severe sexual harassment in violation of Title IX and that the school districts had inadequate grievance procedures for prompt and equitable resolution of complaints of sexual harassment.

Gay students

OCR issued a landmark ruling in the case of a gay student who had endured 2 years of abuse by other students. This voluntary settlement with the Fayetteville, Arkansas, school district was the first in which gay students were provided with coverage by Federal law Title IX. This precedent-setting case involved a young man who was

harassed and taunted throughout 1995 and 1996 and finally beaten by other students, suffering a broken nose and damage to his kidneys. The two students responsible for the beating were convicted of battery (Walsh, 1998).

The agreement signed by the school district requires workshops for teachers and students, a commitment to take disciplinary action against any student “reported and confirmed to have engaged in sexually harassing behavior” (Walsh, 1998, p. 30), and reports to OCR. The young man’s lawyer stated, “School principals who question whether sexual harassment of gay students is illegal will learn a big lesson from this breakthrough” (Walsh, 1998, p. 30).

Elementary school cases of sexual harassment

Despite sharp rulings in these two same-sex cases, another regional office of OCR refused to investigate a Minnesota third grade student’s claim that he was sexually harassed by other boys at school for several months. Jonathan Harms of the Sauk Rapids-Rice School District, who taped his verbal harassment by concealing a tape recorder, was sexually taunted over a period of months by about a dozen of his male classmates in the third grade. The harassment escalated to an assault when his pants and underwear were pulled down below his knees. Yet OCR responded in June 1993 to the parent’s complaint that it found “no indication that the student was singled out for harassment because of his sex” (*Sauk Rapids-Rice School District #47*, 1993).

Protests about OCR’s decision came from expected and unexpected quarters. The boy’s parents responded by saying that “their son’s case sends a ‘disturbing’ message: while girls are protected from the sexual taunts of their male peers, boys are not” (Brown, 1994a). Minnesota Attorney General Hubert H. Humphrey III wrote to U.S. Secretary of

Education Richard Riley on January 6, 1994, seeking an explanation for OCR's decision not to investigate: "I would appreciate clarification of whether boys are covered under Title IX. I ask that the OCR reconsider its decision not to investigate the . . . case" (Brown, 1994a). In an October 17, 1994, letter to Senator Durenberger of Minnesota, Norma Cantu, the Assistant Secretary for Civil Rights of the OCR, indicated that the investigation might be reopened (Pitsch, 1994). This turn of events was undoubtedly influenced by the Minnesota Department of Human Rights September 1994 decision that found "probable cause" in the Harms case. The Department decided to investigate Harms's claim as sexual harassment under State law (*Harms v. Independent School District #47*, 1993).

Two California cases (*Modesto City Schools*, 1993; and *Newark Unified School District*, 1993) investigated by OCR provide sharp contrast to the outcome in the Jonathan Harms complaint in Minnesota. In both California cases, OCR found against the schools and in favor of the complainants.

The California cases also involved elementary school children, this time with boys as the alleged harassers and girls as the targets. The Modesto case began in January 1993, when several girls were restrained in chokeholds, pinched, tripped, and touched repeatedly on their chests, genitalia, and buttocks by some male classmates. The school officials treated the incidents as routine misbehavior and followed their standard disciplinary procedures without determining if a sexually hostile environment existed. Nor were the parents informed of their rights under Title IX. In May 1993 a group of boys, some of whom had been involved in the earlier incidents, threw two girls to the ground, forcibly kissed and fondled them, made lewd statements, and attempted to remove their clothing (Brown, 1994b). OCR's finding, issued on December 6, 1993, found that the school

district had violated Title IX when it treated sexual harassment by elementary school students as a matter of misconduct and mischief rather than as a violation of Federal antidiscrimination law.

The Newark case involved behavior classically viewed and typically dismissed as mutual, voluntary playground behavior. “Friday flip-up” days were an institution at this school. On Fridays, the boys in the first through third grades flipped up the dresses of their female classmates. OCR found that this practice subjected the girls to teasing and touching based on their gender, created a different treatment for them, and limited their enjoyment of the educational program.

Conclusions, implications, and lingering questions from the lawsuits and complaints

The California and Minnesota cases, which involved elementary school children, raise perplexing and disturbing questions: Are the ages of the targets and perpetrators the most salient factors that OCR considers when it decides to investigate a case? Or is it the sex of the target(s) and perpetrator(s)? Are incidents that involve children of the same sex exempt from reprisals if the students are in elementary school? What difference could the sex of the harassers or the target make when a student’s clothes are pulled off? Are these acts not assault, let alone sexual harassment? Or is it that gender violence does not register with some Federal and school officials as real violence (Stein, 1995)?

Whether these questions are embedded in lawsuits in Federal court or before investigators from OCR, the answers given thus far have been different, varying by region of the country. The unintended consequence is perhaps that at times it feels as if we are living in different countries, defined by which Federal district court or regional office of OCR has jurisdiction over a particular school district.

However, this review shows us that the courts are neither clear nor unified on the subject of sexual harassment in schools; at best, they may be reluctant participants. Judges, courtrooms, and legal decisions are perhaps not the best teachers, even if they could give us clear, consistent, and unified guidance.

For educators, the following lessons can be drawn from lawsuits and complaints: (1) regard the events from the student's perspective; (2) consider the impact of even one event on the overall climate of the school; (3) think about the broader message that the school's reaction or lack of reaction conveys to the students; and (4) regard a student's complaint as worthy of investigation.

Yet, for purposes of this review, this discussion of lawsuits and complaints has provided additional evidence that sexual harassment does indeed exist in our nation's schools and that social scientists and educators ought to consider information, although messy and contradictory, that is available from lawsuits and complaints as additional evidence attesting to the phenomenon of sexual harassment in our schools.

SEXUAL VIOLENCE IN K–12 SCHOOLS

The conversation among educators about the full range of sexual harassment and sexual violence in schools has only just begun. Since the U.S. Supreme Court decision, *Franklin v. Gwinnett County (GA) School District* in 1992, school officials now recognize that they are liable for those acts of sexual harassment and sexual violence that take place in their buildings; it is no longer simply a matter of calling in the police to investigate the incident as if it were restricted to an alleged criminal violation. As more young people date at an earlier age, engage in, experience, or witness sexual harassment and sexual violence in their schools, and suffer the consequences of watching partner or domestic abuse in their homes, educators are forced, with a vengeance, to recognize the existence of sexual violence in their schools.

As the previous section of this report documents, sexual harassment is widespread in the schools. Certain incidents of sexual harassment that take place in school or during school-sponsored events are recognized as sexual violence (assault and rape, attempted or completed) and may be pursued simultaneously along several legal channels:

- as a Federal Title IX civil action against the school district and possibly a Federal action under the 14th amendment equal protection clause (Section 1983) against several individually named employees
- as a State criminal action if the county or district attorney decides to pursue it
- as a State tort action (negligence, inadequate or lack of supervision, and so on)
- possibly as a violation of State child abuse laws.

Within the range of behaviors that are considered to be sexual harassment fall some that are sexually violent. The distinguishing feature is one of liability: sexual harassment places

liability on the school while liability for sexually violent behaviors falls initially on the individual through criminal prosecution, though civil actions may also be pursued. This section of the report delves into those few studies and surveys that provide information on sexual violence in K–12 schools.

Introduction and Background

“Ask Beth,” the nationally syndicated teenage advice column, often includes letters from youngsters describing their experiences in school, some of which can be characterized as sexual harassment or sexual violence. On February 3, 1994, her column in the “Boston Globe” contained this letter:

Dear Beth: I am 11 years old and there’s a boy in my class who just won’t leave me alone. He chases after me and my best friend during recess. He hits and kicks me on the behind, stomach and legs. Once he slapped me so hard it brought tears to my eyes. I try to tell my teacher, but she just laughs and tells him, “If you like her so much, ask her for her phone number.” Is this sexual harassment? If it is, what should I do?

Hates being harassed (Winship, 1994).

Unfortunately, this teacher seemed to have infantilized these assaultive behaviors to such an extent that she regarded them as flattery or as the efforts of a youthful, albeit primitive, suitor (Stein, 1995). One would hope that her perspective on this incident is not widely held by other educators. Yet Beth’s columns, along with the surveys on sexual harassment and the material gleaned from lawsuits discussed in previous sections of this paper, contain descriptions and statistics that reveal that the students’ appeals for help are often minimized and dismissed by teachers and administrators who choose to cast the purported assaults as playful, mutual, or as a form of courtship.

Another letter published on June 23, 1995, reveals again the neglect and denial that exist on the part of the adults:

Dear Beth: My friend and I have been emotionally and physically hurt. We've been thrown into the boys' room and bruised from front to back. We talked to the teachers many times, but they say, "When I see them do it, I'll do something about it." They never see it so the boys keep doing it. We've been called bad names. We're only 11 and 12 and don't know what to do.

Two girls in Henniker (NH) (Winship, 1995)

It is not only advice columns that contain revelations about incidents of sexual assaults in schools; the hard news sections of the newspaper also provide glimpses into the sexual violence that occurs in schools. Bathrooms seem to be the location for many sexual assaults, whether the schools are in Colorado, Florida, New York, or Boston ("Spate of sexual assaults in bathrooms, 1997). The assaults range from grabbing and stripping to attempted rape and rape. Buses also have been the site of alleged assaults and the subject of several lawsuits in the fifth circuit (*Rowinsky v. Bryan [TX] Independent School District*, 1996; *J. W. v. Bryan (TX) Independent School District*, 1997; *Bowles et al. v. Floresville_(TX) Independent School District*, 1993, 1994), none of which received rulings in favor of the plaintiffs (or in some cases, even hearings). Despite unfavorable rulings from judges, common sense and experience allow us to agree that unfortunately school buses are not exactly sites of civilized behaviors, and some of those uncivilized behaviors include sexual assaults among the bus riders.

In the winter and spring of 1997–98, a series of schoolyard shootings shocked the nation. Girls were killed by boys in Jonesboro, Arkansas; Pearl, Mississippi; Norwalk, California; and Paducah, Kentucky. Yet the headlines in the nation's newspapers and magazines degendered these events, proclaiming "boys kill classmates." In addition, the responses from school and safety officials also ignored the deliberate, gendered nature of these killings (Perlstein, 1998).

The conversation and the research on sexual violence in schools began with studies of dating violence among college students in the 1980's (Makepeace, 1981; Pirog-Good & Stets, 1989; and others), followed by a few studies that surveyed high school students (Bergman, 1992; Foshee, 1996; Foshee et al, 1996; Henton, Rodney, Koval, Lloyd, & Christopher, 1983; Malik, Sorenson, & Aneshensel, 1997; O'Keefe, Brockopp, & Chew, 1986). By the early 1990's, educators and researchers had begun to acknowledge the problem of teenage dating violence (Levy, 1991). However, those studies largely asked students about their relationships and conduct outside of school, the places where most dating violence manifested itself (parties, private homes, cars, the mall, and other public places) or failed entirely to ask teenagers to specify the location of the dating violence. Researchers did not ask questions about the spillover of violent dating relationships into school. Moreover, sexual harassment surveys (with the exception of Bennett & Fineran, 1998; Fineran, 1996; and Permanent Commission [CT] on the Status of Women discussed above) failed to probe the current or former relationships between the harasser and the target. The National Crime Victimization Survey (NCVS), a major source of crime victimization data in the United States, does inquire about what relationship, if any, existed between the perpetrator and victim at the time of the incident, as well as the location where the incident occurred (including response options for "inside a school building" and "on school property"). Unfortunately, the survey uncovers too few incidents of rape and sexual assault to permit a detailed analysis by relationship and location. Thus, we are left with very few studies that can illuminate the problem of sexual violence in schools.

Definitions of Sexual Violence

The term “sexual violence” is relatively new to the lexicon. From feminist scholarship to the mainstream in the course of the last 30 years, this term has been introduced and then absorbed into common parlance. One might argue that the same goes for the terms “battered women,” “domestic violence,” “acquaintance rape,” and “dating violence.” Finding terms for experiences is an important part of understanding and taking control of one’s experiences. “Naming involves making visible what was invisible, defining as unacceptable what was acceptable and insisting that what was naturalized is problematic” (Kelly, 1988).

It is important to note that most acts of violence are perpetrated by men and boys (93 percent, according to Federal Bureau of Investigation crime statistics). Even though most acts of violence by boys and men are committed against other males, most acts of violence that women and girls suffer come from men and boys, be they family members, strangers, current or former boyfriends or husbands. Violence is not a gender-neutral operation, and sexual violence certainly is not.

The definitions that follow do not necessarily agree with each other and could serve to confuse the reader. However, each definition is deliberately presented because of the stature of the agency that uses it or because the definition offers some unique features not found elsewhere. The most commonplace is listed first.

“The Oxford English Dictionary” (1933) defines violence as “the exercise of physical force so as to inflict injury on or damage to person or property.” More recent definitions indicate an expansion of the word, “involving damage to the self. The damage may be physical, emotional, psychological and/or material. Violation can be of the body,

of the mind, or of trust. The exercise of violence involves the denial of the victim's will and autonomy" (as quoted in Kelly, 1988). The focus of the definition is on the impact on the person being violated and not on the intentions of the violator (Kelly, 1988). "The Oxford English Dictionary" gives no definition for sexual violence.

A feminist conceptualization of sexual violence and gender violence places sexual violence as one factor in maintaining women's oppression and posits that as women, both as a group and as individuals, resist other forms of control, they are subjected to more forms of sexual violence (Kelly, 1988; O'Toole & Schiffman, 1997). Sexual violence is also regarded as a form of social control that denies women their freedom and autonomy, even as a form of policing and terrorism (Kelly, 1988). A feminist conceptualization of sexual violence would insist that it is not simply "people raping/battering/abusing people" (Hester, Kelly, & Radford, 1996) but rather that violence is gendered and needs to be reported and addressed as such.

However, at the same time, some feminist theorists have also extended the definition of sexual violence to include more mundane acts (verbal comments and threats, whistling, leering, and the like) as well as to challenge to the legal system which has constructed and reinforced the more limited definitions of sexual violence.

This undermining [of sexual violence]. . .takes a number of forms including: focusing on the less common sexual assault experienced by men and boys; emphasizing female perpetration of violence; collapsing of all forms of abuse and assault into the ungendered overarching category of "violence"; or separating forms of violence against women from one another so their cumulative meaning is lost. (Hester et al., 1996, p. 4)

Documents and reports published by the Department of Justice, including the 1994 NCVS (Bureau of Justice Statistics [BJS], 1997) and the 1996 report, "Domestic and

Sexual Violence Data Collection: A Report to Congress Under the Violence Against Women Act,” (National Criminal Justice Reference Service [NCJRS], 1996) use the phrase “sexual violence” interchangeably with rape and sexual assault in the latter report but not in the former report. In the NCVS, rape (attempted and completed) and sexual assault (attempted and completed) are defined in the glossary and include male and female, homosexual and heterosexual, and verbal threats (BJS, 1997), but there is no separate definition provided in the NCVS glossary for sexual violence. Similarly, the NCVS definition of sexual assault also includes verbal threats, and “a wide range of behaviors, separate from rape or attempted rape. . .unwanted sexual contact between victim and offender. . . may or may not involve force, and. . .may include. . .grabbing and fondling” (BJS, 1997).

In the 1996 report to Congress issued by the National Institute of Justice (NIJ) and the BJS, the term “sexual violence” is used interchangeably with rape and sexual assault. Where the term stands alone, it is never defined in operational terms. For example, “sexual violence is a crime that is generally determined by specifically prohibited sexually related acts taken by a perpetrator against another person” (NCJRS, 1996). “Sexual violence” seems to be an expression that is used only to distinguish it from the expression “domestic violence.” An NIJ official within the Department of Justice verified that indeed there is no single, simple definition for sexual violence as used by the department; in fact, the term is embedded in other definitions, such as sexual assault (B. Auchter, March 3, 1998, personal communication).

Moreover, ED’s report, “Student Victimization at School” (Nolin, Davies, & Chandler, 1995), presents information from a survey of 6,504 students in grades 6 through

12 (administered in October 1993) on personal student victimization at school. Results “estimated that 2.7 million violent crimes take place annually either at school or near schools” (from the NCVS, 1994 as quoted in Nolin et al., 1995). While this report expands the definition of victimization to include bullying (defined as “repeated threats of harm”), as well as physical attacks, the category of physical attack is unfortunately not broken down to allow the reader to distinguish between those attacks that are sexual as opposed to those that are physical fights and the like (Nolin et al., 1995). Thus, this survey has limited use for the mission of this paper.

In another report issued by ED in March 1998, “Violence and Discipline Problems in U.S. Public Schools (1996–97)” (ED, 1998), distinctions between physical fighting and sexual assaults are included, and a definition of sexual battery is provided. The definition of sexual battery that is used includes “rape, fondling, indecent liberties, child molestation, and sodomy” (ED, 1998).

On the other hand, the National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention (CDC) defines and divides sexual violence into three categories: (1) use of physical force to compel a person to engage in a sexual act against their will, whether or not the act is completed; (2) an attempted or completed sex act involving a person who is unable to understand the nature or condition of the act, decline participation, or to communicate unwillingness to engage in the sexual act, e.g., illness, disability, or the influence of alcohol or other drugs, due to intimidation or pressure; and (3) abusive sexual contact (Saltzman, Fanslow, McMahon, & Shelley, 1998). Moreover, the CDC definition also recognizes that “threats of physical or sexual violence either communicate the intent to cause death, injury, or physical harm, through

the use of words, gestures, or the use of a weapon; or communicate the intent to compel a person to engage in sexual acts or abusive sexual contact when the person is either unwilling or unable to consent.” Separate from the CDC definition of sexual violence is the comprehensive definition of psychological and emotional abuse, elements of which would come the closest to the feminist conceptualization of sexual violence described above.

Examining one State’s plan for sexual assault prevention indicates that the term “sexual violence” is in use. A succinct definition of sexual violence is used in a document prepared by the Washington State Office of Crime Victim Advocacy, in the Department of Community, Trade and Economic Development, along with the Washington State Department of Health and the Washington State Institute for Public Policy: “Non-consensual sexual activity, including sexual assault and sexual abuse[.] . . .The advisory committee decided that the term sexual violence best describes the range of behaviors that cause harm” (Silas & Lieb, 1997). (They use other terms for specific types of sexual violence such as child sexual abuse, child rape, child molestation, forcible rape, date rape, and acquaintance rape.)

Finally, it is possible to identify a range of sexually violent behaviors from the sexual harassment surveys, though the term “sexual violence” is never used. Some of the behaviors identified in the “Hostile Hallways” report (AAUW, 1993) would be considered sexually violent largely because they fall into categories recognized as criminal conduct. Other behaviors are more ambiguously sexually violent, even though they are defined as sexual harassment (severe, pervasive, or repeated, according to the OCR definition).

Behaviors noted in bold in Table 5 below would most likely meet the standards of criminal conduct for sexual assault.

Table 5: Sexual Harassment and Sexually Violent Behaviors

Behavior	Boys	Girls
Sexual comments, jokes, gestures, or looks	56%	76%
Touched, grabbed, or pinched in a sexual way	42%	65%
Intentionally brushed up against in a sexual way	36%	57%
Flashed or mooned	41%	49%
Had sexual rumors spread about them	34%	42%
Had clothing pulled at in a sexual way	28%	38%
Shown, given, or left sexual pictures, photographs, illustrations, messages, or notes	34%	31%
Had their way blocked in a sexual way	17%	38%
Had sexual messages/graffiti written about them on bathroom walls, in locker rooms, etc.	18%	20%
Forced to kiss someone	14%	23%
Called gay or lesbian	23%	10%
Had clothing pulled off or down	17%	16%
Forced to do something sexual other than kissing	9%	13%
Spied on while dressing or showering	8%	7%

Source: AAUW, 1993

Because 65 percent of the girls reported being “touched, grabbed or pinched in a sexual way,” one can say that 65 percent of the girls experienced conduct that can be classified as sexual violence.

The Unknown Factor

Although the many surveys on sexual harassment in schools reviewed in the previous sections present a picture of incidents and events that are sexually violent, they fail to reveal anything about the relationship between the parties involved. Unfortunately, on the other hand, most studies on dating violence do not provide information about the extent of the sexual violence that can occur in schools between the dating partners. Only a few studies, including a dissertation by Susan Fineran (1996) and two articles she coauthored with Bennett (Fineran & Bennett, 1995; Bennett & Fineran, 1998), as well as

an article by Molidor and Tolman (1998), have looked at the intersection of sexual harassment and dating violence by asking if the sexual harassment was coming from someone the target or victim was dating. While the 1995 Connecticut sexual harassment survey asked about the dating relationship, it is not possible to extract this information from the answers provided by the respondents. In large measure, we are left not knowing about the relationship between the individuals engaged in either sexual harassment or sexual violence in schools.

Research Studies on Sexual Violence in Schools

A major limitation of most research on teen dating violence is that the location of the violence is not specified. In other cases, it is unclear which studies report percentages of the total population being victimized and which report percentages of dating youth who are victimized. The review that follows considers only those studies that name school as a location for sexual violence between dating or formerly dating partners. What little is known definitively at this time is very alarming. Reviewed are four studies that surveyed the behaviors of adolescents, and a fifth study that focused on teachers' perceptions of dating violence in school.

Roscoe and Callahan (1985)

Roscoe and Callahan (1985) surveyed 204 high school students in a white, middle class community in Central Michigan. The sample consisted of 108 girls and 96 boys between 15 and 20 years old; all junior and senior students present during the first class period were surveyed. The questionnaire consisted of five sections, which addressed involvement in dating relationships, issues regarding dating violence, experience with dating violence, experience with family violence, and demographic information. Seventeen

students had experienced physical violence in a dating relationship. Of the 17 (11 girls and 6 boys), 10 students admitted perpetrating dating violence, and 8 indicated they experienced a relationship where both students had been violent to one another. Six of the 17 students reported that dating violence occurred at school.

Limitations of the study include that no information was provided on disabled or gay and lesbian youth. The reliance on a small convenience sample means that the results cannot be generalized to other high school populations.

Roscoe and Kelsey (1986)

Roscoe and Kelsey (1986) surveyed senior-year students in a Midwestern, Lutheran parochial school. Seventy-seven senior students (45 males, 32 females) present that day returned the questionnaire, which was distributed in a regular class setting. The students ranged in age from 16 to 19 years old. The survey consisted of five sections which addressed whether students had been in a dating relationship, their beliefs about courtship violence, their experience with dating conflict, violence in the family of origin, and demographic information including the Conflict Tactics Scale (Straus, 1979). Fifteen (19 percent) students reported they had been involved in a violent premarital relationship as a victim and eight students (11 percent) reported reciprocal violence in their relationships.

The study determined that dating violence occurred at five locations: residences (53 percent), school (27 percent), out-of-doors (27 percent), vehicles (13 percent), and public places (7 percent).

Limitations of the study included no analysis by gender; small convenience sample size limited to a single religious school, so that the results cannot be generalized to other

high school populations; and lack of information on race, disabilities, or gay and lesbian youth. In addition, the extent of injuries from dating violence was not assessed.

Bennett and Fineran (1998)

This study surveyed 463 students from two Midwestern high schools, one urban and one suburban. Both schools were racially diverse. The surveys were completed during a required English class in the urban school and during study halls in the suburban school. The survey asked primarily about sexual harassment in school, but several of the questions asked about physical and sexual violence in school: for example, someone “pressured me to do something sexual I did not want to do; attempted to physically hurt me (punch, kick, beat); and attempted to hurt me in a sexual way (attempted rape or rape)” (Fineran and Bennett, 1999). For each of these questions, students were asked to identify if they had been victimized by a schoolmate they did not know, a schoolmate they knew, or a current or former dating partner. Students were also asked whether they had victimized any classmates or dating partners (Fineran and Bennett, 1999).

The final sample included 190 male and 273 female students who ranged in age from 14 to 20. The racial distribution was 27 percent Latino, 23 percent Caucasian, 34 percent African American, and 16 percent other. Thirty-two percent of the students reported that they had been the victims of severe physical violence (punched, kicked, or beaten) and 32 percent of the students reported perpetrating some form of severe physical aggression during the current school year. Twenty-two percent of the students reported experiencing sexual violence and 6 percent reported perpetrating sexual violence. Fifteen percent of the students reported that they experienced severe dating violence (sexual and

physical violence combined) and 5 percent perpetrated severe dating violence in the current school year.

Across the three relationships (schoolmate they did not know; schoolmate they knew; and a current or former dating partner), boys were more likely to be the victims of physical violence and the perpetrators of physical and sexual violence. Girls were more likely to be the victims of dating violence and sexual violence and were more threatened and upset by the behaviors. For dating violence, 7 out of 10 cases were male to female.

Limitations of the study include a sample confined to two schools and a lack of information on students with disabilities or gay and lesbian students. No information was obtained on the severity of the injuries students experienced. A strength of this study is that it asked about behaviors that occurred at school.

Molidor and Tolman (1998)

Molidor and Tolman (1998) showed that dating violence is a form of school violence and that a high percentage of acts of dating violence occur on school grounds. As the authors state, “School is a dangerous place for young women” (Molidor & Tolman, 1998).

Molidor and Tolman surveyed 736 students who attended a large Midwestern high school. Students were surveyed in 23 single-sex gym classes, and participation in the survey was voluntary. Four surveys from the girls were not completed, and surveys from 101 male respondents were eliminated because they were not completed. The students ranged in age from 13 to 18. The final sample contained 635 students: 330 boys (52 percent) and 301 girls (48 percent), 76 percent of whom had been involved in a dating

relationship. The racial distribution included 9.4 percent Latino, 49.6 percent Caucasian, 29.8 percent African American, and 7.3 percent Asian. The remainder were unidentified.

The survey addressed the experience of dating violence in current or past relationships; physical effects of the worst incident of violence; reaction to the worst incident of violence; who initiated the incident; who was told; where the incident occurred; and who was present.

Forty-one percent of the boys and 35 percent of the girls reported experiencing some form of physical aggression from their partners in any dating relationship. Overall, girls experienced significantly higher levels of severe violence and reported more severe physical and emotional reactions to the violence. Girls were more likely to experience severe violence (which the authors defined as having an object thrown at them, being punched, choked, or threatened with a weapon), while boys were more likely than girls to experience less severe forms of physical dating violence (defined by the authors as having one's hair pulled, being kicked, scratched, slapped, or pinched).

The extent to which girls used violence for self-defense was revealed when the respondents answered the question about who began the abuse. "Girls reported their dating partners were the ones who started the abuse 70 percent of the time, whereas boys reported their dating partners to be the initiators of abuse only 27 percent of the time. The boys were much more likely to state that incidents were initiated by them" (Molidor & Tolman, 1998, p. 187). Thirty-seven percent of the girls reported self-defense as the reason they used violence; while only 6 percent of the boys reported self-defense as being the reason for their expressed violent behavior (Molidor & Tolman, 1998, p. 190).

Furthermore, this study revealed that a large number of sexually violent episodes took place in schools or on school grounds. Forty-six percent of the students reported that their worst incident of sexual or dating violence occurred on school grounds or in the building. Moreover, 60 percent of the girls and 51 percent of the boys stated that the couple were alone at the time, meaning that 40 percent of the time for the girls and 49 percent of the time for the boys, others were present.

Limitations of the study include use of a convenience sample that prevents the results from being generalized to other locations and populations and a lack of information on students with disabilities or gay and lesbian students.

Jasinski and West (1997)

While Jasinski & West (1997) did not survey students about the sexual violence in their relationships, it did survey 143 teachers (52 men and 91 women) in two New England high schools. They were surveyed in several areas: (1) their ability to judge violent relationships; (2) situational responses to instances of potential and actual violence by indicating how they would act in four scenarios; (3) rating of dating violence in their school; and (4) their own experiences with personal victimization.

The problem of dating violence was perceived differently by male and female teachers:

None of the male teachers thought that there was a serious dating violence problem in their school, whereas 7.5% of the female teachers thought there was a very serious problem. Almost twice as many of the female teachers (21.3%) compared to male teachers (13%) viewed the dating violence problem in their schools as moderately serious[. . .] Compared to male teachers, female teachers are likely to know twice as many students involved in physically abusive relationships. (Jasinski & West, 1997, p. 7)

When the teachers were asked about their actions if they were to witness violent or potentially violent hypothetical situations in their schools, both male and female teachers responded in a similar manner for those scenarios that involved yelling (scenario one) or sexual name calling (scenario two). Both male and female teachers responded that they would first speak to the students before they took any other actions. However, in scenario three, which depicts a male student who has yelled at and hit his girlfriend, gender differences in the responses of the teachers emerged.

Slightly over half of the female teachers compared to almost three-quarters of the male teachers would speak to the student first. More than twice as many female teachers as male teachers would call security first when faced with this type of situation. (Jasinski & West, 1997, p. 8)

In the fourth scenario, as well, where the female student indicates that she is afraid to leave the building because of what she fears her boyfriend will do, gender differences occur in three of the four choices mentioned by the teachers. For the choices, the survey results were (a) speak to the student (13.7 percent of male teachers; 6.6 percent of female teachers); (b) alert security (17.6 percent of male teachers; 30.8 percent of female teachers); (c) contact a counselor (21.6 percent of male teachers; 13.2 percent of female teachers); and (d) refer to assistant principal (43.1 percent of male teachers, and 42.9 percent of female teachers). The authors suggested that previous victimization status, as voluntarily revealed by the respondents, could have influenced the women teachers' reactions in scenarios three and four, where hitting was involved and where the female student indicated that she was afraid to leave the building.

When the teachers were asked if they had been trained to deal with and prevent dating violence, 11.9 percent of the women teachers had received some form of training

compared to 2 percent of the men teachers. However, when asked if they would like to receive training, more than twice as many female teachers than male teachers expressed interest (25.8 percent of the women compared to 11.5 percent of the men). However, these numbers still represent a small portion of the total (Jasinski & West, 1997). The teachers' lack of training was manifested in their inability to recognize abusive relationships and their limited repertoire of responses to these potentially violent situations when they did recognize them.

In conclusion, the authors' findings show that even though "a majority of teachers felt capable of identifying an abusive relationship, in fact many were unable to do so. In addition, there was a false sense of security with respect to the incidence of dating violence within their schools" (Jasinski & West, 1997, p. 9).

Conclusion from the studies: Moderately substantiated proof of sexual violence in schools

Since there are few studies, it is difficult to substantiate firmly the degree to which sexual violence is present in schools. However, combining these few strong studies with the daunting abundance of studies on sexual harassment, which offer substantial evidence about sexually violent behaviors that take place in schools, it can be claimed with moderate substantiation that sexual violence exists in the nation's schools.

(See appendix C for a summary of dating violence and sexual violence surveys that mention school as a location of the sexual violence episodes.)

Survey Data on Sexual Violence in Schools

The standard sources of survey data on sexual violence in schools are very problematic, contradictory, and in some instances underestimate the occurrences and kinds

of sexual violence that take place in schools. Five sources of survey data purportedly about sexual assaults and rapes at schools will be compared to make this point.

National Crime Victimization Survey (1994)

Based on data from the 1994 NCVS, an estimated 152,690 incidents of rape or sexual assault throughout the United States were perpetrated by people who were strangers to the victim. Of this total, 3.6 percent (5,497 incidents) of the attacks occurred inside a school building or on school property. An estimated 273,330 additional incidents of rape or sexual assault were perpetrated by persons who were known by the victim. Of these, 2.4 percent (6,560 attacks) occurred inside a school building or on school property. These projections were based on the fewer than 20 telephone interviews in which people answered yes to NCVS interviewers (BJS, 1997).

The NCVS almost certainly underestimates the actual number rapes and sexual assaults, however. Most of the survey data are gathered during telephone interviews (n = 20). Crime victims, and especially rape victims, are sometimes unwilling to admit they were assaulted during a telephone conversation with a survey interviewer. Some sex crime victims do not report the crimes because they were attacked by family members who could be present in the household during the interview. Other victims do not report crimes simply because they do not want family members to overhear. The use of the word “crime” in the title of the survey and other factors also possibly contributes to underreporting (Mahoney, 1997). Some of these problems were mitigated, but not eliminated, when the NCVS was redesigned in 1992.

The National Adolescent Student Health Survey (1989)

The National Adolescent Student Health Survey (American School Health Association, Association for the Advancement of Health Education, & Society for Public Health Education, Inc., 1989) also reports on victimization at school. (See Table 6 below.)

The report offered details of life in school: 34 percent of the students reported that someone threatened to hurt them; 14 percent reported being robbed; 13 percent reported being attacked; and 4.7 percent reported a rape or attempted rape. Missing from the report is a breakdown of the threats and attacks by the sex of the victim(s) and perpetrator(s).

Table 6: Prevalence and Frequency of Fighting and Victimization at School during the Past Year

	Total	8th	10th	All male	All female	8th male	8th female	10th male	10th female
Total students surveyed (n =)	11,419	5,859	5,560	5,682	5,737	2,887	2,972	2,795	2,765
Threatened but not hurt at school (%)									
0 times	65.7	62.3	68.8	61.7	70.1	55.4	69.4	66.9	70.8
1 time	17.8	19.0	16.8	19.1	16.5	21.5	16.3	16.9	16.7
2 times	5.6	5.5	5.6	6.1	5.1	6.4	4.7	5.8	5.4
3+ times	10.9	13.2	8.8	13.4	8.3	16.7	9.6	10.4	7.1
Attacked at school (%)									
0 times	87.0	83.6	90.2	83.3	91.0	77.5	90.0	88.6	91.9
1 time	8.0	9.5	6.6	9.6	6.2	12.3	6.6	7.2	5.9
2 times	2.5	3.9	1.2	3.7	1.2	5.7	2.0	1.9	0.4
3+ times	2.5	3.0	2.1	3.4	1.6	4.5	1.4	2.3	1.8
Raped or an attempted rape at school (%):									
0 times	95.3	94.6	96.0	96.2	94.4	95.0	94.1	97.2	94.6
1 time	2.0	2.4	1.7	1.3	2.7	1.8	2.9	0.8	2.6
2 times	0.6	0.5	0.6	0.5	0.6	0.6	0.5	0.5	0.8
3+ times	2.1	2.5	1.8	2.0	2.2	2.6	2.5	1.5	2.0

Source: American School Health Association, Association for the Advancement of Health Education, & Society for Public Health Education, Inc., 1989)

National Household Education Survey (1993)

Data from the National Household Education Survey (NHES), supplied by National Center for Education Statistics of ED (Nolin et al., 1995), come from the realm of vagueness and the land of missed opportunities. According to their report, 2.7 million violent crimes take place annually at or near schools (citing unpublished 1994 NCVS data). In addition, bullying was added to the list of incidents in the 1993 NHES along with physical attack and robbery. Unfortunately, the survey did not distinguish sexual assaults or rapes from the broader category of physical attacks, thereby affording very little insight on the nature and extent of sexual violence in schools.

Violence and Discipline Problems in U.S. Public Schools (1997)

In late March 1998, ED released a study based on a nationally representative sample of 1,234 public elementary, middle, and high schools (ED, 1998). The principals of those schools were asked about crimes, including sexual battery and rape, about which they contacted the police or law enforcement officials. Based on the survey results, Table 7 below contains national estimates of the number of incidents of rape or other type of sexual battery in the public schools. Table 7 reveals that approximately 4,170 incidents of rape or sexual battery were reported by U.S. public schools, a figure considerably less than the 12,057 rapes and sexual assaults at school estimated by NCVS (BJS, 1997).

Table 7: Number and Percent of Public Schools Reporting Incidents of Rape or Other Type of Sexual Battery* and Total Number of Incidents of Rape or Other Type of Sexual Battery Reported in Public Schools in Which Police or Other Law Enforcement Were Contacted, by School Characteristics, 1996–97**

	Number of schools with one or more incidents	Percent of schools with one or more incidents	Total number of incidents
All public schools	2,326	3%	4,170
Instructional level:			
Elementary school	404	1%	690
Middle school	731	5%	1,400
High school	1,191	8%	2,070
Size of enrollment:			
Less than 300	255	1%	320
300 – 999	1,232	2%	2,010
1,000 or more	840	11%	1,830
Locale:			
City	912	5%	1,930
Urban fringe	708	4%	1,130
Town	256	1%	290
Rural	451	2%	820
Region:			
Northeast	333	2%	510
Southeast	595	4%	1,210
Central	661	3%	1,180
West	738	3%	1,270

*Other types of sexual battery include fondling, indecent liberties, child molestation, and sodomy.

**National estimates are based on data from a representative sample of 1,234 public schools

Source: ED, National Center for Education Statistics, 1998, pp. 39–40, citing data from a 1997 publication.

Massachusetts Youth Risk Behavior Survey (1997)

Questions about dating violence were added to this survey, which was administered to 3,982 students in grades 9–12, representing an overall response rate of 70 percent. In all, 58 of 66 randomly selected high school participated in the survey, resulting in a school response rate of 88 percent. Because of the high response rate, data from the

1997 Massachusetts Youth Risk Behavior Survey (YRBS) have been weighted by the CDC, allowing the information derived from the report to be an accurate estimate of the prevalence of the health risk behaviors of Massachusetts youth as a whole and of students of both genders and all four high school grades. The racial/ethnic breakdown was 74 percent white, 6.2 percent Black; 7.8 percent Hispanic; 5.5 percent Asian or Pacific Islander; and 5.4 percent other (including American Indian and Alaskan Native). Massachusetts was one of 33 states that participated in the YRBS in 1997.

Dating violence was experienced by 14 percent of the survey participants (7 percent of the males, 20 percent of the females). More than 1 in 10 students (11 percent) had been hurt physically by someone they were dating, and 7 percent had been hurt sexually. All gender differences were statistically significant, $p < .05$ (Massachusetts Department of Education, 1997, p. 36).

Violence by intimates (1998)

In March 1998, the Bureau of Justice Statistics published a statistical factbook using data from 1992 to 1996, gathered from sources including the NCVS, Uniform Crime Reporting Program, and National Incident-Based Reporting System (Greenfeld et al., 1998). Each year from 1992 through 1996 there were an average of more than 960,000 incidents of violent victimization of women age 12 or older by an intimate. Intimates include former or current spouses, boyfriends, or girlfriends (Greenfeld et al., 1998). Over the 5-year period, 72.2 percent of the incidents of nonlethal intimate violence against women occurred at or near the victim's home, while only 1.2 percent occurred at schools (Greenfeld et al., 1998). That 1.2 percent of incidents is equivalent to roughly 58,000 nonlethal incidents of intimate violence against young women at school over five years.⁹ It

is likely that the percentage of incidents at school or on school grounds would have been higher if the survey had been restricted to girls between the ages of 12–18 years.

Nonstandard sources of survey data: The Teen Dating Violence Project

Facing the deficiencies and omissions of the standard surveys, which do not accurately provide a full and true portrait of the extent of sexual violence in schools, unpublished and nonstandard sources of information on sexual violence in schools were sought. As an example of a venue for such information, a large combined domestic violence and sexual assault organization in Austin, Texas, SafePlace (formerly called the Center for Battered Women), agreed to reveal some of their lessons and statistics. The agency is well known for its dating violence intervention program and curriculum, “Expect Respect.” Moreover, SafePlace, in collaboration with the Austin Independent School District, had recently been awarded a grant from the CDC to conduct a 3-year study of fifth graders connecting interventions to curb bullying with sexual harassment, teen dating violence, and domestic violence.

What staff of SafePlace know after many years of working in the schools on the problem of violence in teenage relationships has not been published in the usual places. Consequently, the lessons they have derived are known only among those who work in similar organizations (“member’s knowledge” in the language of ethnographers). After years of conducting weekly support groups for both male and female adolescents in both middle and high schools, the project coordinator (who is also the principal investigator in the CDC project mentioned above) reported in a telephone interview that teen dating violence manifests itself in schools (B. Rosenbluth, personal communication, February 11, 1998). Her recommendations for collecting more accurate information are (1) to find

alternative words for “dating” when probing adolescents’ relationships and (2) to question the relationship between the perpetrator and the target when sexual harassment occurs in schools.

In the 1997–98 school year, this program served 279 teens, including 171 girls and 102 boys (the sex of 6 additional participants was not recorded during a personal interview with a counselor before the groups were formed). Of the 279 teens, 12 percent reported they had experienced abuse in a current dating or intimate relationship; 39 percent reported experiencing abuse in a past dating or intimate relationship, and 60 percent had witnessed or experienced domestic violence (B. Rosenbluth, personal communication, February 11, 1998). (The data are not necessarily school specific.) All participants agreed to remain in the groups, though some were perhaps referred by school staff, while others self-referred.

SafePlace also conducts classroom sessions on dating violence. During the 1997–98 school year, 6,124 students participated in these sessions. Data were collected on the dating violence experiences of each classroom participant. One in six (15 percent) of classroom participants reported that they had been abused in a dating relationship, 10 percent reported that they had abused a person they were dating, 30 percent reported that a friend of theirs was abused by someone they were dating, and 19 percent had a friend who had abused a partner (B. Rosenbluth, personal communication, September 10, 1998).

(See appendix D for a summary of the SafePlace program and the national surveys on dating violence/sexual violence).

SUMMARY AND RECOMMENDATIONS

This review has produced a moderately substantiated picture of sexual violence and sexual harassment in schools. It has also revealed inadequacies in the research, including comparability, auspices, funding, and quality. Nonetheless, conclusions emerge about the widespread nature of sexual harassment and sexual violence in schools, be they from convenience samples or a nationally representative group of schools and students with a highly stratified two-stage sampling design.

In addition, while conducting this review, many recommendations have surfaced that could reduce both sexual harassment and sexual violence in schools, create new public policy, foster collaboration between agencies and schools, and offer new directions for research. Two types of recommendations are included here: those for schools and for policies and research.

Recommendations for Schools

1. **Heighten awareness of all school staff** (teachers, administrators, cafeteria workers, custodians, bus drivers, coaches, secretaries, and other support staff) about sexual harassment and sexual violence, including dating violence, in schools. Establish mandatory professional development training on the subject that is more than an hour lecture on an early-release day when the staff are herded into the auditorium or cafeteria to listen to a speaker from an outside organization or, worse yet, the school's attorney. Instead, interactive, half-day training sessions should be required of all school personnel, with additional training offered to specialized teams, made up of both men and women within each school building. These teams would then serve as ombuds (a title that, although difficult to pronounce, is preferable to either "complaint

manager” or “grievance coordinator,” which are terms guaranteed to turn off the students) to whom students wishing to make complaints would be directed. These teachers or ombuds would also be asked to include discussions of sexual harassment and sexual violence in their classrooms as part of the regular school curriculum.

2. **Foster collaboration between K–12 schools and domestic violence and/or sexual assault organizations in the community.** As a start, invite representatives from those organizations to join the efforts of the Hamilton Fish National Institute on School and Community Violence and its university and school partners to evaluate effective school-violence prevention strategies.
3. **Create a school-based version of a temporary restraining order.** This process could be simple, noncontestable by the other party, and enforced by school personnel, with reprisals for violations; it could be as simple as “you stay away from her or else....” Since it is not certain how many adolescents would use civil orders of protection or temporary restraining orders (discussed below), creating and offering a school-based version would simplify the process for them. In addition, parental permission could be required, along with oversight from school personnel (all of whom would first have to be informed).

Recommendations for Policy and Research

1. **Expand eligibility for temporary restraining orders (TRO’s; also known as “orders of protection”) to include noncohabitating minors.** Unfortunately, the great majority of adolescents in abusive relationships cannot get TRO’s because they are merely dating (as opposed to being married or living together), do not meet age requirements, or do not meet some other residency requirement (Levesque, 1997).

Currently, only 13 States allow for the possibility of granting minors TRO's (with distinctions in some States made between dating, engagement, and consummated relationships): Alabama, Alaska, California, Colorado, Illinois, Massachusetts, Minnesota, New Hampshire, New Mexico, North Dakota, Oklahoma, Pennsylvania, and West Virginia. These 13 States allow for the most TRO's offered to adolescents because they do not impose conditions or restrictions, such as parenthood, marriage, cohabitation, or other adult requirements (Levesque, 1997). In Massachusetts, for example, in 1996, 900 TRO's were issued to minors between the ages of 13 and 17 (Quiroga, November 5, 1997).

Three additional States offer protection to adolescents who are 16 years old or older: New York, Utah, and Washington. All of the remaining States limit TRO protection either by excluding minors altogether,¹⁰ requiring the involved minors to be parents together,¹¹ or requiring them to be or have been married or cohabitants.¹²

Only four States expressly allow minors to be the subject of a civil action (meaning that if one's batterer or abuser is a minor, then a TRO could be issued against that person).¹³ Five other States require that the subject of the TRO be at least 16 years old.¹⁴ Eight States expressly prohibit minors from being subject to TRO's, and the remaining 33 States are silent on the issue.¹⁵ Sadly, such restrictions imply that violence and abuse from a minor is somehow less than or different from violence and abuse from someone who is no longer a minor. To quote from Levesque (1997, p. 357):

The failure to incorporate adolescents into domestic violence policies engenders a brutal social reality: adolescents are left without legal recourse

and without mandated or otherwise available services. In essence, therefore, adolescent battering remains invisible.

Adolescents will remain in peril until all States offer them eligibility for protection from (sexual) violence from a dating or courting partner and access to domestic violence services.

2. **Permit domestic violence and sexual assault organizations to apply for funding under various government programs that would enhance their collaboration with and entry into schools.** Foster collaboration and shared funding.
3. Create a **single definition of sexual violence** for use by all governmental agencies.
4. **Add gender-based and gender-motivated crimes** to the national and State definitions of Hate Crimes. Such a provision has been introduced into Congress, and in some States, such as Massachusetts, these provisions are already law. Forty States have hate crimes legislation of some kind; nine States have no hate crimes legislation. Of those States that specify which groups are covered by their hate crimes legislation, only 11 mention gender (Lyman, 1998).
5. **Redesign and readminister sexual harassment surveys.** Future surveys on sexual harassment should include questions that ask about the relationship between the harasser or perpetrator and the target. While some sexual harassment is conducted in an anonymous fashion (graffiti, notes, cat-calls, and the like), much of it occurs in public between people who know each other or who are or were involved in dating relationships.

Endnotes

¹ Ethnic and racial descriptors that accompany the quotes are in the words of the girls responding to the “Seventeen” magazine survey, September 1992.

² Telephone conversation on September 12, 1996 with Jim Sexton, senior editor of “USA Weekend Magazine” and editor of the teen survey issue. The survey was also published on the back of the Channel One teacher’s guide and was promoted in Channel One news broadcasts. According to Mr. Sexton, about two-thirds of the responses came from students replying directly to the magazine’s survey, while one-third came from the teacher’s guide to Channel One.

³ *Franklin v. Gwinnett County (GA) Public Schools* decision in the U.S. Supreme Court, 112 S. C. 1028 (1992), established the right to sue for compensatory damages under Title IX. For the first time in the 20-year existence of Title IX, the Federal law that guarantees an educational environment free from sex discrimination and, by implication and interpretation, sexual harassment, schools could be held liable for compensatory damages if they failed to provide an educational environment that was free from sex discrimination. The facts of this case revolve around a 15-year-old young woman who had sex, three times, with a teacher on school grounds. When she reported it, first to a teacher whom she trusted and then to the school administrators, they told her not to tell anyone—not her parents, not the police, not her boyfriend—and that they would get rid of the offending teacher. The teacher agreed to resign and the school agreed to drop all matters pending against him. The plaintiff, Christine Franklin, won on the grounds that the school had discriminated against her on the basis of sex, and the Supreme Court for the first time allowed compensatory damages for the plaintiff.

⁴ Interviews with Carol and Katy Lyle conducted by Katie Couric, “The Today Show” (NBC, October 7, 1992); and Adrian LeBlanc in “Seventeen” magazine (1992).

⁵ The following definition of the “reasonable woman (person) standard” is from Sneed & Woodruff, 1994, pp.10–11: “For both *quid pro quo* and *hostile environment* harassment, whether or not sexual harassment exists is to be judged from the perspective of the ‘reasonable person.’ That is, would a reasonable person view the behavior complained of as sexual harassment? There is some uncertainty among Federal courts and agencies as to whether the ‘reasonable person’ standard takes into account the circumstances of the victim, and if so, to what extent. Federal agencies such as the EEOC [Equal Employment Opportunity Commission] and OCR, as well as several lower courts that have addressed the issue, have adopted a ‘reasonable woman’ or ‘reasonable person in the victim’s situation’ standard that would appear to favor the complainant more than the ‘reasonable person’ perspective. . . . Moreover, in several Title IX Letters of Finding, OCR states that the existence of a sexually hostile environment is determined from the viewpoint of a reasonable person in the victim’s situation.”

⁶ “Stand Against Fear” aired on NBC television on December 16, 1996. Produced as a Moment of Truth production; executive producers Horowitz and O’Hare; producers Beth Schneder and Tracy Jeffery.

⁷ Civil Rights Act of 1871, 42 U.S.C. section 1983:

Every person who, under color of any statute, ordinance, regulation, custom, usage, of any state or territory, subjects or causes to be subjected, any citizen of the United States or any person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Section 1983, a Federal statute, provides an avenue of redress for individuals who have been deprived of their Federal constitutional or statutory rights at the behest of the State authority (for example, the right to due process) and also of Federal statutory rights passed pursuant to constitutional authority.

⁸ Office for Civil Rights' Letters of Findings and/or Settlement Agreements obtained through Freedom of Information Act (FOIA): Petaluma, CA (#09-89-1050, issued May 5, 1989); Victorville, CA (09-90-1143, August 8, 1990); Sweet Home, OR (#10-92-1088, November 15, 1991); Meridian, TX (#06-92-1145, July 29, 1992); Reno, NV (09-91-1220, March 27, 1993); Mason City, IA (#07-93-1095, March 28, 1994); Albion MI (#15-94-1029, April 7, 1994); Millis, MA (#01-93-1123, May 19, 1994).

⁹ The estimate of 58,000 incidents is based on data from Greenfeld et al, 1998, p. 37. There were 4,819,009 violent victimizations (lethal and nonlethal) of women by intimates from 1992 to 1996. Over the same 5-year period, 7,088 women were murdered by intimates. Subtracting this latter sum from the earlier total number of violent victimizations of women, yields the total number of nonlethal victimizations of women perpetrated by intimates: 4,811,921. Multiplying this figure by 1.2% yields the final estimate: 58,000 incidents.

¹⁰ Indiana, Iowa, Missouri, New Jersey, and Texas exclude all minors from receiving TRO protection.

¹¹ Arizona, Connecticut, Florida, Georgia, Idaho, Kentucky, Maine, Nebraska, Nevada, North Carolina, South Carolina, South Dakota, Virginia, and Wyoming require minors to be coparents in order to receive TRO protection.

¹² Arkansas, Delaware, Hawaii, Kansas, Louisiana, Maryland, Michigan, Mississippi, Montana, Ohio, Oregon, Rhode Island, Tennessee, Vermont, and Wisconsin require minors to be or have been married or cohabitants.

¹³ Alaska, Idaho, Illinois, and Massachusetts allow all minors to be the subject of civil actions.

¹⁴ Connecticut, Oklahoma, Utah, Washington, and Wyoming require that the subject of a TRO be at least 16 years old.

¹⁵ Arizona, Colorado, Iowa, Missouri, New Jersey, Oregon, Tennessee, and Wisconsin forbid minors from being subject to TRO's.

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APPENDIX A: Summary of Sexual Harassment Surveys

Survey	Date	Type	Sample	Results
“Seventeen” survey (Stein, Marshall, & Tropp, 1993)	March, 1993	Magazine, nonprobability	2,002 9–19 year old girls	89% experienced sexual comments, gestures, or looks 83% experienced being touched, pinched or grabbed
AAUW/Harris Poll, “Hostile Hallways”	June 1993	probability, sample (79 public schools)	1632 students; 828 boys, 779 girls in 8th to 11th grades in 79 public schools	83% of girls and 60% of the boys experienced sexual harassment
“USA Weekend” Magazine	September 1996	Magazine, nonprobability	222,653 students; 97,967 boys, 124,686 girls, in grades 6 to 12,	81% of girls and 76% of boys experienced sexual harassment
Connecticut survey (Permanent Commission on the Status of Women, 1995)	January 1995	probability, sample	547 public school students; 308 girls, 235 boys, (numbers do not add up to total, quoted from “In Our Own Backyard,” p. 8) grades 10 to 12	92% of girls and 57% of boys experienced sexual harassment
Massachusetts survey (Stein, 1981)	1980–1981	nonprobability	49 high school students	38 experienced sexual harassment
Iowa survey (Boddy & Selzer, 1994)	1994	nonprobability (83 schools)	503 high school students; 253 girls, 250 boys,	83% of girls and 62% of boys experienced sexual harassment
North Dakota survey (Stratton & Backes, 1997)	1997	nonprobability (8 schools)	176 12th grade students; 87 boys, 89 girls	93.3% of girls and 83% of boys experienced sexual harassment
New Jersey survey (Trigg & Wittenstorm, 1996)	1996	nonprobability (9 schools)	696 students; 365 girls, 331 boys	97% of girls and 70% of boys experienced sexual harassment

Texas survey (Texas Civil Rights Project, 1997)	October 1997	nonprobability, conducted at workshops	1860 students in grades 7 to 12: 784 girls, 886 boys	64% of girls and 25% of all students experienced unwanted touching, pinching, or grabbing, boys results not available
Fineran and Bennett study (1995)	1995	nonprobability (1 school)	342 high schools students, 120 boys, 222 girls	87% of girls and 79% of boys experienced peer sexual harassment
Roscoe, Strouse and Goodwin study (1994)	1994	nonprobability (1 school)	561 white students from 11 to 16 years old; 281 girls, 280 boys	50% of girls and 37% of boys experienced peer sexual harassment
New Jersey study (“Sexual harassment in a New Jersey school,” 1995)	1995	nonprobability 1 school	711 high school students in one school; 327 girls, 384 boys	73% of all students experienced sexual harassment, gender breakdown not available
Shakeshaft ongoing study (Shakeshaft, 1997)	1992–1995	Naturalistic observations, interviews in school	1000 middle school students in 8 schools, gender not available	no statistics available
Russo study (1996)	1996	interviews and focus groups	26 physically disabled students, 15–22 years old in five after-school programs and one high school; 19 girls, 7 boys	no statistics available

Appendix B: Types and Prevalence of Sexual Harassment Reported in Three Studies

	AAUW/Harris Poll: Hostile Hallways Survey (1993) (8th–11th grade students)		Connecticut Survey: In Our Own Backyard (1995) (10th–12th grade students)		New Jersey Survey* (Trigg and Wittenstrom) (1996)
	Boys	Girls	Boys	Girls	All respondents
Experienced sexual comments, jokes, gestures, or looks	56%	76%	26% (only includes comments)	67%	58%
Experienced suggestive sexual gestures or looks	included in category above		13%	53%	included in category above
Told offensive sexual jokes	included in category above		17%	40%	included in category above
Touched, grabbed, or pinched in a sexual way	42%	65%	32%	65%	51% (includes being brushed up against in a sexual way)
Intentionally brushed up against in a sexual way	36%	57%	NA	NA	included in category above
Flashed or mooned	41%	49%	NA	NA	37%
Had sexual rumors spread about them	34%	42%	18%	37%	35%
Had clothing pulled at in a sexual way	28%	38%	NA	NA	NA
Shown, given, or left sexual pictures, photographs, notes, or illustrations	34%	31%	9%	19%	NA
Had their way blocked in a sexual way	17%	38%	10%	47%	22%
Had sexual messages/graffiti written about them	18%	20%	9%	10%	NA
Forced to kiss someone	14%	23%	included in category below		14%
Forced to do something sexual other than kissing	9%	13%	3% (includes kissing)	14%	10%
Called gay or lesbian	23%	10%	NA	NA	NA
Had clothing pulled off or down	17%	16%	NA	NA	NA
Spied on while dressing/showering	8%	7%	NA	NA	NA

(NA = not asked in survey) * New Jersey Survey did not divide responses by gender

APPENDIX C: Summary of Dating Violence/Sexual Violence Surveys That Mention School as a Location of the Sexual Violence

Survey	Date	Type	Sample	Results
Roscoe & Callahan	1985	11th and 12th graders surveyed in first period nonprobability sample	204 high school students: 108 girls, 96 boys between 15 and 20 years old	Of the 17 students (11 girls, 6 boys) involved in dating violence, 35% experienced it at school
Roscoe & Kelsey	1986	in class survey (1 parochial school) nonprobability sample	77 12th grade students: 45 boys, 32 girls, ages 16 to 19	Of the 23 students involved in dating violence, 27% experienced it at school
Bennett & Fineran	1998	surveys completed during required English class and study hall (2 high schools) nonprobability sample	463 students; 190 boys, 273 girls, ages 14 to 20	22% of students experienced sexual violence, 15% experienced severe dating violence (sexual and physical violence combined)
Molidor & Tolman	1998	surveys completed in 23 single sex gym classes (1 high school) nonprobability	635 students, ages 13 to 18: 330 boys, 301 girls	41% of boys and 35% of girls experienced some form of physical aggression from dating partner, 46% of these students experienced it at school
Jasinski & West	1997	(2 high schools) nonprobability	143 teachers; 52 men, 91 women	0% of male teachers, compared to 7.5% of female teachers, thought that there was a serious dating violence problem in their school 21.3% of female teachers, compared to 13% of male teachers, thought dating violence was a moderately serious problem in their school

APPENDIX D: Summary of Standard Surveys on School Violence and Alternative Sources of Data on Sexual Violence

Survey	Date	Type	Sample	Results
National Crime Victimization Survey	1994	Nationally representative stratified probability sample	Non-institutionalized civilians ages 12 and older living in the 50,000 households sampled nationally	12,057 rapes and sexual assaults occurred at school, a total of 2.8% of all rapes and sexual assaults estimated to have occurred in any location
National Adolescent Student Health Survey	1989	Nationally representative stratified probability sample	11,000 students in grades 8 and 10	Girls are more likely than boys to report being victims of rape or attempted rape at school. Roughly equal proportions of 8th- and 10th-grade girls reported that they were victims of rape or attempted rape at school
National Household Education Survey	1993	Nationally representative probability sample	6,500 students in grades 6 through 12	Survey instrument did not distinguish sexual violence from the broader category of physical attacks
Violence and Discipline Problems in U.S. Public Schools	1996-97	Nationally representative stratified probability sample	Public elementary and secondary schools in the U.S. were sampled. Principals or school disciplinarians were asked to respond	4,170 incidents of rape/sexual battery were reported by public schools to law enforcement officials during the 1996-97 academic year
Massachusetts Youth Risk Behavior Survey	1997	Representative of Massachusetts, probability sample	3,982 students from 58 schools in grades 9-12	14% of the students experienced dating violence (7% of the males, 20% of the females); 11% had been hurt physically, and 7% had been hurt sexually, by someone they were dating

Violence by Intimates: Analysis of data on crimes by current or former spouses, boyfriends, and girlfriends	1998	Report issued by Bureau of Justice Statistics drawing on data from multiple surveys and reporting systems	Not applicable	From 1992 through 1996, there were approximately 58,000 incidents of nonlethal violence perpetrated by intimates at school against women ages 12 and older. This figure comprises 1.2% of the incidents of nonlethal violence perpetrated by intimates anywhere against women ages 12 and older during the same time period.
SafePlace (formerly the Teen Dating Violence Project)	Ongoing since 1998. The Teen Dating Violence Project was launched in 1988.	Convenience sample	Self-selected group of teens near Austin, Texas	During the 1997-98 school year, 279 teens participated in the group counseling sessions. Of those, 12% reported experiencing abuse in their current dating/intimate relationship; 39% reported abuse in a past dating/intimate relationship; and 60% reported that they had witnessed/experienced domestic violence at some time in their lives.